The Burger Court Opinion Writing Database

Ocala Star-Banner Co. v. Damron

401 U.S. 295 (1971)

Paul J. Wahlbeck, George Washington University
James F. Spriggs, II, Washington University
Forrest Maltzman, George Washington University

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
THE CHIEF JUSTICE

February 8, 1971

Re: No. 118 - Ocala Star-Banner v. Damron

Dear Potter:

Please join me.

Regards,

WEB

WEB

Mr. Justice Stewart

cc: The Conference

February 1, 1971

Re: No. 118 - Ocala v. Damron

Dear Potter:

I agree with your opinion, and I am glad to join.

Sincerely,

J.M.H.

Mr. Justice Stewart

CC: The Conference

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE WM. J. BRENNAN, JR.

February 2, 1971

RE: No. 118 - Ocala Star-Banner Co. v. Camron

Dear Potter:

I agree.

Sincerely,

W.J.B.Jr.

Mr. Justice Stewart

cc: The Conference

To: The Chief Justice
Mr. Justice Black
Mr. Justice Douglas
Mr. Justice Harlan
Mr. Justice Brennan
Mr. Justice White
Mr. Justice Marshall
Mr. Justice Blackmun

From: Stewart, J.

JAN 29 1971

Circulated:

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1st DRAFT

SUPREME COURT OF THE UNITED STATES

No. 118.—October Term, 1970

Ocala Star-Banner Company et al., Petitioners, *v.* Leonard Damron.	On Writ of Certiorari to the District Court of Appeal of Florida, First District.

[February —, 1971]

Mr. Justice Stewart delivered the opinion of the Court.

The Ocala Star-Banner Company, the petitioner in this case, publishes a small daily newspaper serving four counties in rural Florida. On April 18, 1966, the Star-Banner printed a story to the effect that the respondent, Leonard Damron, then the mayor of Crystal City in Citrus County and a candidate for the office of county tax assessor, had been charged in a federal court with perjury, and that his case had been held over until the following term of that court.[1] This story was false.

[1] The story appeared under a three-column head ("Damron Case Passed Over To Next U. S. Court Term") and was as follows:

"INGLIS—A case charging local garage owner Leonard Damron with perjury was passed over for the present term of Federal Court after Damron entered a not guilty plea before Federal Judge Harold Carswell in Gainesville.

"Damron was indicted by a Federal grand jury in Tallahassee last January and charged with perjury in a 1964 civil case which resulted in damages of $65,000 being awarded to a Yankeetown couple.

"Mrs. Gail Finley alleged that Levy County Deputy Sammy Cason slammed on brakes causing her to injure her neck in October of 1962.

"Cason and Deputy Walter Beckham went to Yankeetown with a

To: The Chief Justice
Mr. Justice Black
Mr. Justice Douglas
Mr. Justice Harlan
Mr. Justice Brennan
Mr. Justice Stewart
Mr. Justice Marshall
Mr. Justice Blackmun

1st DRAFT

From: White, J.

Circulated: 2-5-71

Recirculated:

SUPREME COURT OF THE UNITED STATES

No. 118.—October Term, 1970

Ocala Star-Banner Company et al., Petitioners, *v.* Leonard Damron. | On Writ of Certiorari to the District Court of Appeal of Florida, First District.

[February —, 1971]

Mr. Justice White, concurring.

I join the opinion and judgment of the Court in this case and in *Monitor Patriot Co.* v. *Roy, ante,* p. —. But a few additional words are appropriate to put these decisions in context and to recall some self-evident but often forgotten aspects of the line of cases sired by *New York Times* v. *Sullivan,* 376 U. S. 254 (1964). Inevitably that case, by imposing on libel and slander plaintiffs the burden of showing knowing or reckless falsehood in specified situations will at times—how often it is difficult to judge—result in extending constitutional protection to lies and falsehoods which, though neither knowing nor reckless, do severe damage to personal reputation. The First Amendment is not so construed, however, to award merit badges for intrepid but mistaken or careless reporting. Misinformation has no merit in itself; standing alone it is as antithetical to the purposes of the First Amendment as the calculated lie. *Garrison* v. *Louisiana,* 379 U. S. 64, 75 (1964). Its substance contributes nothing to intelligent decisionmaking by citizens or officials; it achieves nothing but gratuitous injury. The sole basis for protecting publishers who spread false information is that otherwise the truth would too often be suppressed.

This has all been said before:

> "Neither lies nor false communications serve the ends of the First Amendment, and no one suggests

2nd DRAFT

SUPREME COURT OF THE UNITED STATES

No. 118.—October Term, 1970

Ocala Star-Banner Company et al., Petitioners, *v.* Leonard Damron. | On Writ of Certiorari to the District Court of Appeal of Florida, First District.

[February —, 1971]

Mr. Justice White, concurring.

Inevitably, *New York Times* v. *Sullivan,* 376 U. S. 254 (1964), by imposing on libel and slander plaintiffs the burden of showing knowing or reckless falsehood in specified situations will result in extending constitutional protection to lies and falsehoods which, though neither knowing nor reckless, do severe damage to personal reputation. The First Amendment is not so construed, however, to award merit badges for intrepid but mistaken or careless reporting. Misinformation has no merit in itself; standing alone it is as antithetical to the purposes of the First Amendment as the calculated lie. *Garrison* v. *Louisiana,* 379 U. S. 64, 75 (1964). Its substance contributes nothing to intelligent decision-making by citizens or officials; it achieves nothing but gratuitous injury. The sole basis for protecting publishers who spread false information is that otherwise the truth would too often be suppressed. That innocent falsehoods are sometimes protected only to ensure access to the truth has been noted before, *St. Amant* v. *Thompson,* 390 U. S. 727, 732 (1968), and it is well that the thought is repeated today in *Time, Inc.* v. *Pape,* — U. S. —, at —.

Supreme Court of the United States
Washington, D. C. 20543

CHAMBERS OF
JUSTICE THURGOOD MARSHALL

February 3, 1971

Re: No. 118 - Ocala Star-Banner v. Damron

Dear Potter:

Please join me.

Sincerely,

T.M.

Mr. Justice Stewart

cc: The Conference

February 2, 1971

Re: No. 118 - Ocala Star-Banner Co. v. Damron

Dear Potter:

I agree.

Sincerely,

H.A.B.

Mr. Justice Stewart

cc: The Conference