

Norton v. Glenn Settled

On July 13, 2006, a settlement was reached in *Norton v. Glenn*, 860 A.2d 48 (Pa. 2004). The Pennsylvania Supreme Court had ruled in October 2004 that there was no basis in federal or a state constitutional law for an absolute “neutral reportage” privilege to protect news media publications from reporting defamatory statements made by one public official about another. The court ruled that even if the media accurately and objectively report such statements, they may be liable for defamation if challengers can prove they published the statements with actual malice. See “Updates in Libel Law: In Pennsylvania, No ‘Neutral Report’ Privilege Recognized” in the Fall 2004 issue of the *Silha Bulletin*.

The case arose from a newspaper article by Tom Kennedy that was published in the *Chester County Daily Local News* on April 20, 1995. The article, “Slurs, Insults Drag Town into Controversy,” described heated exchanges that occurred between members of the Parkersburg Council both inside and outside council chambers. Kennedy reported that Council member William T. Glenn had claimed that Council President James B. Norton III and Borough Mayor Alan M. Wolfe were homosexuals and child molesters.

Following publication of the article, Wolfe and Norton filed a defamation suit against Glenn, but also named Kennedy, the *Daily Local News*, and the newspaper’s owners as additional defendants. The Court of Common Pleas of Chester County determined that Kennedy and the media defendants were entitled to the protection of the “neutral reportage privilege,” explaining that the privilege provided immunity from defamation suits for all accurate media reports of public proceedings, even though the event did not occur at a formal meeting. Neutral reportage, a constitutional doctrine, protects media organizations from libel claims when they accurately and objectively report on newsworthy charges made by prominent organizations against public figures as part of an ongoing controversy. A jury found the media defendants not liable based on the definition of the neutral reportage privilege provided by the judge.

Norton and Wolfe appealed the decision, resulting in the October 2004 Pennsylvania Supreme Court ruling. The high court ordered another trial to determine the media’s liability under an actual malice standard. That standard, established by the United States Supreme Court in *New York Times Co. v. Sullivan*,

376 U.S. 254 (1964), is used to determine whether alleged defamatory statements were published with knowledge of falsity or reckless disregard for the truth.

The media parties in *Norton v. Glenn* then appealed the decision to the U.S. Supreme Court. But in March 2005 the high court declined to hear the case. The case was then scheduled for retrial in Chester County. Following three days of testimony, the settlement was announced in July 2006.

David Kairys, a Temple University professor of constitutional law, told *Headlines & Deadlines*, the weekly newspaper of the Pennsylvania Newspaper Association, that it is unfortunate that Pennsylvania does not recognize some form of the neutral report privilege because it can help keep the public informed about the government. “This decision leaves a pall over other reporters. And the people will hear less about their public officials than I think they should. We have laws that require open trials and proceedings. The public loses out because we don’t know what happened here.”

— Elaine Hargrove
Silha Fellow and *Bulletin* Editor