

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 19-7109

September Term, 2019

FILED ON: MAY 29, 2020

AUGUST LOUIS WOLF,
APPELLANT

v.

SAMANTHA MENH,
APPELLEE

Appeal from the United States District Court
for the District of Columbia
(No. 1:19-cv-00305)

Before: SRINIVASAN, *Chief Judge*, and ROGERS and WILKINS, *Circuit Judges*.

J U D G M E N T

This appeal was considered on the record from the United States District Court for the District of Columbia and on the briefs of the parties. *See* FED. R. APP. P. 34(a)(2); D.C. CIR. R. 34(j). The Court has afforded the issues full consideration and has determined that they do not warrant a published opinion. *See* D.C. CIR. R. 36(d). It is

ORDERED AND ADJUDGED that the judgment of the district court be **AFFIRMED**.

In 2016, August Wolf began campaigning for the Republican Party nomination to run against the incumbent holding one of Connecticut's U.S. Senate seats. His campaign committee hired Samantha Menh as Finance Director. Their working relationship was tumultuous, and Menh quit soon after she was hired, claiming that Wolf had repeatedly sexually harassed her. Menh then sued Wolf in a Connecticut state court alleging, among other things, sexual harassment, a hostile work environment, and violation of campaign finance laws. The lawsuit and its allegations were reported on online news sites, and the publicity ultimately required Wolf to suspend his Senate campaign and resign from his job as a partner at an asset management firm. Wolf then filed the instant lawsuit, claiming defamation, tortious interference with

contract, and common law conspiracy, on the basis that the allegations of Menh's Connecticut lawsuit were deliberately false.

The district court granted Menh's motion to dismiss the complaint, ruling that her allegedly defamatory statements were protected by an absolute litigation privilege under Connecticut law and thus could not be the basis of Wolf's defamation suit. Because Wolf's lawsuit is untimely pursuant to the relevant statute of limitations, and because the court may "affirm a correct decision even if on different grounds than those assigned in the decision on review," *Skinner v. Dep't of Justice*, 584 F.3d 1093, 1100 (D.C. Cir. 2009), we affirm.

Wolf concedes that the District of Columbia's statutes of limitations apply to his claims. The District of Columbia's statute of limitations for a defamation action is one year, *see* D.C. Code § 12-301(4), and begins to run on the date the defamatory statement was published. *Oparaugo v. Watts*, 884 A.2d 63, 72 (D.C. 2005). The statute of limitations for Wolf's tortious interference and conspiracy claims would ordinarily be three years, *see* D.C. Code § 12-301(8), but those claims are also subject to the defamation claim's one year statute of limitation because they are "intertwined with" the defamation claim. *See Saunders v. Nemati*, 580 A.2d 660, 662 (D.C. 1990). Claims are intertwined "when they are based on the same underlying facts." *Browning v. Clinton*, 292 F.3d 235, 244 (D.C. Cir. 2002).

Wolf's defamation claim alleged that Menh "published to third-parties . . . numerous false factual statements" and that she "knew or should have known that her defamatory statements would be republished over and over by third-parties." Compl. ¶¶ 47–48. The count for tortious interference with contract alleged that Menh interfered with Wolf's employment by "devising and orchestrating a scheme to extort, defame and injure" him "by fabricating accusations of battery, sexual harassment and wrongdoing." *Id.* ¶ 43. The third count, for common law conspiracy, alleged that Menh "acted in concert with others . . . for the express purpose of injuring Wolf in his business and reputation by tortuously interfering with Wolf's employment contract . . . and through the publication and republication of false and defamatory statements." *Id.* ¶ 55. Thus, all three counts have the same factual basis: the allegedly false statements that Menh made in her lawsuit. As such, the three counts are intertwined and all are subject to the one year statute of limitations.

Wolf's cause of action accrued at the latest on June 1, 2016, the date Menh filed her Connecticut lawsuit. To satisfy the statute of limitations, Wolf was therefore required to file the instant lawsuit no later than June 1, 2017. He did not do so, however, until September 14, 2018. His lawsuit is therefore untimely.

Wolf responds that Menh is responsible for third parties' reasonably foreseeable republication of her statements, and that such republications by media outlets occurred within the one year period preceding the filing of his lawsuit. Yet the District of Columbia has "adopted the single publication rule," meaning that "[r]epublication does not create a new cause of action." *Rosen v. Am. Israel Pub. Affairs Comm., Inc.*, 41 A.3d 1250, 1255 (D.C. 2012). As such,

whether there were any such republications is beside the point, as they would not render Wolf's lawsuit timely.

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate until seven days after resolution of any timely petition for rehearing or rehearing *en banc*. See FED. R. APP. P. 41(b); D.C. CIR. R. 41.

Per Curiam

FOR THE COURT:
Mark J. Langer, Clerk

BY: /s/
Daniel J. Reidy
Deputy Clerk