

Illinois Official Reports

Appellate Court

Doe v. J.P.J., 2024 IL App (1st) 240157

Appellate Court
Caption

JOHN DOE, Individually and as Father and Next Friend of Jane Doe, a Minor, Plaintiff-Appellant, v. J.P.J., J.P.S., R.M., and KATE GLICKMAN, Defendants (J.P.J., J.P.S., and R.M., Defendants-Appellees).

District & No.

First District, Third Division
No. 1-24-0157

Filed

September 30, 2024

Decision Under
Review

Appeal from the Circuit Court of Cook County, No. 2023-L-009050; the Hon. Thomas M. Cushing, Judge, presiding.

Judgment

Affirmed.

Counsel on
Appeal

Richard R. Gordon and Elizabeth Hackney, of Gordon Gordon & Centracchio, LLP, of Chicago, for appellant.

Richard F. Linden, of Chicago, for appellees.

Panel

JUSTICE D.B. WALKER delivered the judgment of the court, with opinion.
Presiding Justice Lampkin and Justice Reyes concurred in the judgment and opinion.

OPINION

¶ 1 Plaintiff “John Doe,” individually and as father and next friend to “Jane Doe,” filed a complaint alleging, *inter alia*, a violation of the Gender Violence Act (Act) (740 ILCS 82/1 *et seq.* (West 2020)) against defendant J.P.J. (a minor) and a violation of the Parental Responsibility Law (740 ILCS 115/1 *et seq.* (West 2020)) against defendants J.P.S. and R.M. (J.P.J.’s parents) (collectively, defendants).¹ Defendants moved pursuant to section 2-401(e) of the Code of Civil Procedure (Code) (735 ILCS 5/2-401(e) (West 2022)) for an order requiring defendants to be identified by fictitious names in all filings, prohibiting defendants from being identified by their real names in any filings, and requiring that any filings identifying defendants by name either be redacted or placed under seal. The trial court granted defendants’ motion, and plaintiff now appeals, contending that the trial court abused its discretion in granting defendants’ motion. We affirm.

BACKGROUND

¶ 2 On September 8, 2023, plaintiff filed a multicount complaint against defendants and Glickman. Count I of plaintiff’s complaint alleged a claim against J.P.J. pursuant to the Act (740 ILCS 82/1 *et seq.* (West 2020)). Count IV² alleged a claim against J.P.J.’s parents, J.P.S. and R.M., pursuant to the Parental Responsibility Law (740 ILCS 115/1 *et seq.* (West 2020)). Finally, count V alleged a claim against all defendants pursuant to section 15 of the Rights of Married Persons Act (750 ILCS 65/15 (West 2020)). The allegations in plaintiff’s complaint are as follows.

¶ 4 On November 19, 2021, John Doe’s 14-year-old daughter, Jane Doe, met the 14-year-old defendant, J.P.J., and two other minors at defendant Glickman’s residence in Chicago. Although Glickman was initially at the residence with Jane Doe, J.P.J., and the other minors, Glickman left the residence at around 7 p.m. and did not return for several hours.

¶ 5 After Glickman left, Jane Doe drank alcohol at the residence. J.P.J. then began “filming” Jane Doe with J.P.J.’s cell phone “to assess her level of intoxication, consciousness, and awareness, in premeditation for sexually assaulting her.” Despite Jane Doe’s apparent intoxication, “fogginess[,] and confusion,” J.P.J. then “coerced” her to leave the basement where she and the others were and go with him to one of the upstairs bedrooms.

¶ 6 Once in the bedroom, J.P.J. attempted to forcibly have Jane Doe perform oral sex on him. J.P.J. then physically got on top of Jane Doe and verbally pressured her to take off her “pajamas.” Jane Doe, however, repeatedly refused and told J.P.J. that she would not consent to performing oral sex on him.

¶ 7 J.P.J. then held Jane Doe down on the bed, forcibly removed her “pants and underpants,” and “repeatedly penetrated Jane Doe’s vagina with his penis” despite Jane Doe’s repeated communication that she was not consenting to any sexual conduct with him. Jane Doe was fearful for her safety and did not believe she could safely leave the bedroom. During J.P.J.’s

¹Defendant Kate Glickman is not a party to this appeal.

²Counts II and III alleged claims solely against Glickman, and count V alleged a claim against all defendants, including Glickman. Glickman, however, is not a party to this appeal, and therefore we will not detail those claims here.

assault of Jane Doe, J.P.J. allegedly took Jane Doe’s cell phone and sent text messages to her parents purportedly from Jane Doe to hinder her mother from contacting Glickman.

¶ 8 At around 9 a.m. the following morning, Jane Doe informed her parents that J.P.J. had sexually assaulted her. Her parents immediately brought her to Lurie Children’s Hospital in Chicago. Chicago police officers subsequently questioned J.P.J.

¶ 9 On October 18, 2023, defendants filed their motion for an order requiring that they be identified by fictitious names pursuant to section 2-401(e) of the Code. Defendants argued that, as with Jane Doe, use of a fictitious name for the minor defendant J.P.J. was necessary to protect his privacy. Defendants further argued that, as with the parent of Jane Doe, J.P.J.’s parents should be required to be identified by fictitious names because otherwise, “[t]he world will know the identity of [J.P.J.] if his parents are identified by the real names.” Defendants stated that the allegations against J.P.J. were sensitive and serious, which warranted keeping J.P.J.’s parents’ identities private at that stage of the proceedings. Finally, defendants further claimed that plaintiff was improperly using a “threat of public disclosure against J.P.J. to coerce” defendants into a settlement with plaintiff and Jane Doe.

¶ 10 Plaintiff’s response argued in essence that, under *Doe v. Doe*, 282 Ill. App. 3d 1078, 1084 (1996), defendants’ personal embarrassment or potential damage to future professional or economic well-being does not establish good cause under section 2-401(e). Plaintiff further argued that defendants’ motion relied on “unsubstantiated and unverified allegations unsupported by affidavit or any other evidence” and was an improper attempt to “rape-shame [Jane Doe].”

¶ 11 On November 17, 2023, the trial court granted defendants’ motion. The court first observed that the parties to this sexual battery case were both 14-year-old children. After recounting the gravamen of plaintiff’s complaint, the court then noted that the record before the court, “while not verified,” included the following assertions from defendants: the State declined to charge J.P.J. with sexual assault, the rape kit and a physical examination of Jane Doe revealed no deoxyribonucleic acid (DNA) or signs of injury, and police reports indicated that Jane Doe could not recall whether there was penetration and provided “inconsistent accounts” to the police. The court added that “plaintiffs did not contest them in their response brief.”

¶ 12 After quoting a paragraph from the concurring opinion in *Doe v. Readey*, 2023 IL App (1st) 230867, ¶ 53 (Hyman, J., specially concurring), the court stated that “policies referenced in [the] concurrence, protecting the identities even of those minors who have been found guilty of delinquency,” warranted granting defendants’ motion. The court determined that J.P.J. “should be accorded the same anonymity in this claim for civil relief as he would be if he were appealing a guilty finding under the Juvenile Court Act.”

¶ 13 The trial court added that its determination to protect the identities of both minors would be extended to the identity of the minors’ parents. After noting that plaintiff John Doe is proceeding under a fictitious name because otherwise the identity of his minor daughter could not effectively be protected, the court reasoned that “[t]he same is true for the parents of [J.P.J.]”

¶ 14 Citing *In re Marriage of Johnson*, 232 Ill. App. 3d 1068 (1992), the trial court stated that it had balanced defendants’ “right to privacy against the public’s right of access to open court proceedings.” The court found that the allegations contained in the complaint were “of a graphic and sexual nature” and that the allegations “on their face are disturbing and sensitive.” Relying upon *Doe*, 282 Ill. App. 3d at 1088, the court then found that there was a compelling

interest favoring defendants' right to privacy in keeping their names from the public, which was "superior to the public's right of access to an open proceeding." Finally, the trial court stated it would reconsider its order if defendants took "any steps to make their names known to the public" and that "the trial judge at the time of jury selection" would reconsider the order.

¶ 15 On December 15, 2023, plaintiff filed a motion to reconsider. Plaintiff argued that the trial court erroneously considered defendants' statements (purportedly contained in the police reports) that were not "supported by documentation or affidavit." Plaintiff further argued that the court improperly based its "entire decision" upon the concurring opinion in *Readey*. Finally, defendants argued that, even if relying upon the concurring opinion was proper, it would only apply to the minor defendant, J.P.J., and not J.P.J.'s adult parents.

¶ 16 In response, defendants noted that law enforcement and court records involving juveniles are presumed confidential. Defendants added that Jane Doe's allegations were unproven and J.P.J. formally denied the sexual assault allegations. Defendants argued that it made "no sense for the law to protect J.P.J.'s identity in a criminal case, but not in this civil case." With respect to the *Readey* opinion, defendants countered that concurring opinions are at least persuasive authority.

¶ 17 With respect to the statements the trial court relied upon, defendants attached the affidavit of defense counsel, who averred that the following statements in defendants' motion and relied upon by the trial court were contained within a 31-page supplementary police report. Defendants stated that they did not attach the supplementary police report because it disclosed the names of the minors and their parents and further contained "personal identifying information" about them as well as others. Defendants, however, stated that they would make the report available to the court and opposing counsel upon request.

¶ 18 In particular, as to the statement that the State declined to charge J.P.J. with sexual assault, defense counsel's affidavit provided an alleged direct quote from the supplementary report: " 'ASA J. HUFF notified R/Detective that the Assistant States Attorney Office rejected the Criminal Sexual Assault/Force charge.' " Regarding the statement that Jane Doe did not recall if there was penetration, defense counsel again quoted the report, which purportedly stated, "[Jane Doe] did not seem to recall if there was penetration or the length of duration of possible penetration" and "When asked if his penis went into her vagina, [Jane Doe] reported she was not sure."

¶ 19 As to Jane Doe's inconsistent accounts to the police, defense counsel reiterated the alleged statements in the supplementary report that Jane Doe was initially unsure whether J.P.J. used his penis to penetrate her and believed (but was not sure) that J.P.J. penetrated her in her vagina. The report, however, also allegedly stated that, later in the interview, Jane Doe said that J.P.J. did use his penis to penetrate her. Defense counsel claimed in his affidavit that the supplementary report indicated that "male DNA was not detected in vagina[l] swabs, oral swabs, anal swabs, and swabs from the inner thighs" and that the physical exam was " 'without signs of injury.' "

¶ 20 Finally, defense counsel claimed that, in the supplementary report, Jane Doe admitted that she had consumed "edibles" and, according to her friend, Jane Doe brought a small water bottle filled with vodka from home and had drunk most of the vodka. The report also purportedly included that the friend had previously seen Jane Doe intoxicated, Jane Doe appeared to be intoxicated after returning from upstairs, and Jane Doe " 'was still slurring her words' " even while she was in the bathroom.

¶ 21 On January 10, 2024, the trial court denied plaintiff's motion. Plaintiff then filed a notice of interlocutory appeal as of right pursuant to Illinois Supreme Court Rule 307(a)(1) (eff. Nov. 1, 2017). This appeal follows.

¶ 22 ANALYSIS

¶ 23 Plaintiff contends that the trial court abused its discretion in granting defendants' motion to proceed under a fictitious name pursuant to section 2-401(e) of the Code. Specifically, plaintiff argues that the court erred in (1) relying upon defendants' concerns of embarrassment or the sensitivity of the allegations as a proper basis to grant their motion, (2) relying upon the concurring opinion in *Readey*, (3) considering the "unsupported and unsubstantiated" statements in defendants' motion, and (4) allowing J.P.J.'s parents (J.P.S. and R.M.) to proceed anonymously where "embarrassment appears to have been the *** only basis" to grant their motion.

¶ 24 At common law, lawsuits against fictitious defendants were prohibited. *Bogseth v. Emanuel*, 166 Ill. 2d 507, 514 (1995). Therefore, civil judicial proceedings in Illinois are typically conducted in public. *A.P. v. M.E.E.*, 354 Ill. App. 3d 989, 1003 (2004). "Identifying the parties to a proceeding is an important dimension of publicness; the public has a right to know who is utilizing the courts that its tax dollars support." *Id.* Section 2-401(c) of the Code codifies that principle and provides that "[a] party shall set forth in the body of his or her pleading the names of all parties for and against whom relief is sought." 735 ILCS 5/2-401(c) (West 2022).

¶ 25 Fictitious names are usually allowed when necessary to protect "the privacy of children, rape victims, and other particularly vulnerable parties or witnesses." *A.P.*, 354 Ill. App. 3d at 1003. Furthermore, a statute allowing the use of fictitious names is in derogation of the common law, so it must "explicitly" authorize such practice. *Bogseth*, 166 Ill. 2d at 514. In addition, suing or defending under a pseudonym is a privilege and doing so is neither assumed nor granted automatically even if the opposing party does not object. *A.P.*, 354 Ill. App. 3d at 1002. To the contrary, the use of pseudonyms is disfavored, and the trial court has an independent duty to determine whether "exceptional circumstances" justify deviating from the court's normal procedures. *Id.* at 1002-03.

¶ 26 There are exceptions, however. Section 2-401(e) of the Code provides that, "[u]pon application and for good cause shown the parties may appear under fictitious names." 735 ILCS 5/2-401(e) (West 2022). Although section 2-401(e) does not define "good cause," this court has previously noted that case decisions from other jurisdictions have generally looked to "whether the party seeking to use a pseudonym has shown a privacy interest that outweighs the public's interest in open judicial proceedings." *Doe*, 282 Ill. App. 3d at 1088. The *Doe* court further observed that those instances were exceptional and concerned matters "of a highly personal nature." *Id.* Whether those instances are exceptional are necessarily fact-intensive and examined on a case-by-case basis. See *Doe No. 1 v. Northwestern Memorial Hospital*, 2014 IL App (1st) 140212, ¶ 44.

¶ 27 The determination of whether a plaintiff has shown good cause under section 2-401(e) lies within the discretion of the trial court, and we will not reverse that determination absent an abuse of discretion. *Id.* ¶ 36. This same standard applies to a defendant. See *Doe*, 282 Ill. App. 3d at 1089. A court abuses its discretion only where its ruling is arbitrary, fanciful, or

unreasonable, or where no reasonable person would adopt the court's view. *Blum v. Koster*, 235 Ill. 2d 21, 36 (2009); *Maniscalco v. Porte Brown, LLC*, 2018 IL App (1st) 180716, ¶ 29.

¶ 28 In this case, the trial court did not abuse its discretion. The parties have not cited (nor have we found) an Illinois decision in which an anonymous juvenile plaintiff and her parent are appealing from the granting of a defendant juvenile's (and his parents') motion to proceed anonymously or under a fictitious name. Nonetheless, there are multiple instances in which the identity of a juvenile has been protected. First, with certain exceptions not relevant here, court records relating to juveniles under the Juvenile Court Act of 1987 (Juvenile Court Act) (705 ILCS 405/1-1 *et seq.* (West 2020)) are "presumed confidential." See *In re J.R.*, 307 Ill. App. 3d 175, 180 (1999). In addition, appeals brought under the Juvenile Court Act, which include allegations of abuse and neglect, also require that the juvenile be identified by first name and last initial or by initials. Ill. S. Ct. R. 660(c) (eff. Oct. 1, 2001). Finally, even appeals concerning the adoption of a minor have a similar requirement. Ill. S. Ct. R. 663(b) (eff. Oct. 1, 2001).

¶ 29 Within the context of the sentencing of juveniles for criminal convictions, the United States Supreme Court observed that there is a lack of maturity and an underdeveloped sense of responsibility in youth more often than in adults, and those deficits are more understandable among the young. *Roper v. Simmons*, 543 U.S. 551, 569 (2005). The Court added that this typically results in impetuous and ill-considered actions. *Id.* The Court further noted that juveniles are more vulnerable or susceptible to negative influences and outside pressures, including peer pressure. *Id.* Finally, the Court stated that a juvenile's character is not as well formed as that of an adult, *i.e.*, the juvenile's personality traits are more transitory and less fixed. *Id.* at 570. These concerns and observations add weight to the privacy interests of juveniles.

¶ 30 Here, 14-year-old J.P.J. was accused of sexually assaulting Jane Doe (who was also 14). Specifically, Jane Doe alleged that J.P.J. recorded her in a state of inebriation with his phone, brought her to an upstairs bedroom, attempted to force her to perform oral sex on him, and then repeatedly penetrated her vagina with his penis. As the trial court noted, these matters are of a highly personal nature and concerned an alleged graphic, violent act on the part of a juvenile defendant. In light of the well-established lack of maturity on the part of youth, which likely is the rationale for maintaining the confidentiality of juvenile records under the Juvenile Court Act (as well as the appeals therefrom), we cannot hold that the trial court's granting of defendants' motion to proceed fictitiously was arbitrary, fanciful, unreasonable, or one where no reasonable person would adopt the court's view. *Blum*, 235 Ill. 2d at 36; *Maniscalco*, 2018 IL App (1st) 180716, ¶ 29. Therefore, the court did not abuse its discretion, and we must reject plaintiff's claim of error.

¶ 31 Furthermore, plaintiff's reliance upon an out-of-state decision (*T.S.R. v. J.C.*, 671 A.2d 1068 (N.J. Super. Ct. App. Div. 1996)) does not alter our disposition. There, T.S.R. and another plaintiff alleged that, when they were between 11 and 13 years old, the defendant sexually abused them. *Id.* at 1070. The defendant in that case was their former minister. *Id.* Although the trial court initially granted defendant's motion for an order, *inter alia*, prohibiting the plaintiffs from filing "any further pleadings or documents containing names, addresses, or identities," the court subsequently granted plaintiffs' motion to reconsider that order and rescinded it. *Id.* Defendant then appealed the granting of the motion to reconsider, but the New Jersey Superior Court, Appellate Division, affirmed. *Id.* at 1076. Although the opinion did not

specifically state that the defendant was an adult, the statute under which the plaintiffs brought their claim of sexual abuse defined that offense as sexual contact or penetration “between a child under the age of 18 years and *an adult*.” (Emphasis added.) N.J. Stat. Ann. § 2A:61B-1 (West 1995). Since the unmistakable inference is that the defendant in T.S.R. was an adult, it is factually distinguishable from the case before us, which involves a juvenile defendant. Therefore, plaintiff’s reliance upon T.S.R. is unavailing.

¶ 32

For the same reason, we reject plaintiff’s reliance upon *Doe*. In that case, the plaintiff (as an adult) filed a complaint against the defendant alleging that the defendant had sexually molested her while she was a minor. *Doe*, 282 Ill. App. 3d at 1079-80. The trial court granted the defendant’s section 2-401(e) motion, prohibiting plaintiff from “filing any other action disclosing [the] defendant’s true name and from amending her complaint or filing any pleadings substituting ‘[the] defendant’s true name in place of the John Doe designation.’ ” *Id.* at 1080. This court, however, reversed. *Id.* at 1089-90. Although the decision does not explicitly state it, the unmistakable inference is that the defendant was an adult. The defendant, who was the plaintiff’s uncle by marriage, sought an *ex parte* order prohibiting the plaintiff from disclosing his identity because it would, *inter alia*, cause severe and permanent damage to his wife and children. *Id.* at 1080. In addition, the defendant was a lawyer in the Chicago area and the subject of a “past or current” criminal investigation. *Id.* at 1089. On these facts, it is not unreasonable to conclude that the defendant in *Doe* was an adult. Accordingly, *Doe* is distinguishable from this case on the same grounds as T.S.R.

¶ 33

We also reject plaintiff’s claim that the trial court improperly relied upon the concurring opinion in *Doe*, 2023 IL App (1st) 230867, ¶¶ 43-58 (Hyman, J., specially concurring). The court’s discussion of the special concurrence constitutes at most two paragraphs out of the five-page order. That is hardly an excessive reliance. Moreover, the court’s discussion merely reiterated the concurring opinion’s comment that there is a need for anonymity for even those minors who have brought appeals pursuant to the Juvenile Court Act. There was nothing inappropriate in the court’s opinion, so plaintiff’s argument is meritless.

¶ 34

Plaintiff further argues that the trial court improperly relied upon various statements in defendants’ motion that purportedly came from a police report, which was not a part of the “verified” trial court record. The court’s order, however, merely made note of (1) the purported statements, (2) the fact they were not a part of the record, and (3) plaintiff’s failure to dispute them.³ The court’s determination was not based upon any purported statements in defendants’ motion; rather, the court’s rationale was focused on the “graphic and sexual nature” of the allegations, the fact that the allegations were facially “disturbing and sensitive,” and that the defendants’ privacy interest outweighed the public’s right of access to an open proceeding. Plaintiff’s argument on this point is unsupported by the record and is thus unavailing.

¶ 35

Moreover, we reject plaintiff’s final argument, namely, that the trial court erroneously allowed J.P.J.’s parents to proceed anonymously. Although plaintiff asserts that “embarrassment [on the part of J.P.J.’s parents] appears to have been the trial court’s only basis” to allow the motion, plaintiff does not point to anything in the record to substantiate this assertion. As noted above, the court’s decision on a motion brought pursuant to section 2-401(e) is reviewed for an abuse of discretion. *Northwestern Memorial Hospital*, 2014 IL App (1st) 140212, ¶ 36. Plaintiff’s argument amounts to mere speculation, which is insufficient to

³Plaintiff also does not dispute these statements in his brief before this court.

show an abuse of discretion. See, e.g., *People v. Cole*, 2017 IL 120997, ¶¶ 51-58 (holding that defendant’s “mere speculation” failed to establish that the trial court abused its discretion). In any event, requiring the parents to reveal their identity would effectively reveal the identity of their son, destroying the confidentiality the court found to be warranted. Maintaining the confidentiality of a juvenile’s parents is not a novel practice. See, e.g., *In re R.L.S.*, 218 Ill. 2d 428 (2006); *Suppressed v. Suppressed*, 206 Ill. App. 3d 918 (1990); *Doe v. Lutz*, 281 Ill. App. 3d 630 (1996); *Doe v. Roe*, 289 Ill. App. 3d 116 (1997); *In re Brandon K.*, 2017 IL App (2d) 170075. Plaintiff’s final argument is thus without merit.

CONCLUSION

The trial court did not abuse its discretion in granting defendants’ motion for an order to proceed using fictitious names. Accordingly, we affirm the judgment of the trial court.

Affirmed.