

Court Rejects Nancy Grace's Motion to Dismiss Skakel Libel Case

A federal judge denied a motion to dismiss a defamation case against television court commentator Nancy Grace for her comment about Michael Skakel, whose murder conviction was overturned and who is awaiting retrial, during a segment of Grace's program. The court found the pleadings show the statement that Skakel's DNA was found at the murder scene was false.

Skakel was convicted in 2002 of the 1975 murder of Martha Moxley. Following a hearing for his parole in 2012, Grace and Beth Karas, another legal expert for cable television, engaged in an exchange that Skakel's DNA was found at the scene of the murder. Skakel contends that no court records supported their statements. Both Grace and Karas said they had been present during Skakel's trial. In 2013, Skakel's conviction was set aside and he is free on bail pending an appeal of the decision to set aside his conviction.

During the television segment, Grace asked Karas about the "crux" of the case. Grace then asked Karas, "Isn't it true that the Kennedy cousin [Skakel] apparently was up in a tree masturbating trying to look into [Moxley's] bedroom window?" Karas responded, "Eell his NDA was found yes . . . up in the tree."

Skakel sued Grace, Karas, Turner Broadcasting System, Inc., and Time Warner, Inc. for various counts of defamation and false light invasion of privacy. The defendants filed a motion to dismiss the case, which the judge denied.

"Despite allegedly knowing that no DNA evidence linked Skakel to Martha Moxley's murder, and despite that Skakel's DNA was allegedly not found anywhere on the victim's body or clothing or at the scene of the crime, Skakel [sic] and Grace published a statement to a wide audience that the Plaintiff's DNA in the form of sperm was *found* in a tree outside of Martha Moxley's window," the court found. "Although the Defendants contend to the contrary, at this state of the litigation and accepting as true the allegations in the complaint, the Court may not ignore the patent falsity of the Karas/Grace colloquy that Skakel's DNA was *found* at the scene."

The defendants argued that it did not matter whether the statement was true or not because testimony during the trial placed Skakel in a tree outside Martha Moxley's window the night of the murder and therefore the statement was not "substantially false." The court disagreed, finding that the pleadings clearly allege "that Karas's and Grace's statements not only were substantially false, they were literally false."

The defendants also contended that because Skakel was found guilty of murder, the presence or absence of DNA evidence was only a minor inaccuracy and therefore cannot support a defamation claim. The court rejected the argument. "While Skakel was convicted of murder, he was allegedly so convicted absent any DNA evidence linking him to the crime. Grace's and

Karas's comments are not merely a gloss on Skakel's conviction; their statements imply that hard, unfeeling, scientific, and direct evidence linked Skakel to the scene and conclusively corroborated his guilt, when such scientific certainty did not exist," the court said.

The court left open the question of whether Skakel is a "public figure" and thus would have to overcome a higher bar for recovery for defamation.

Skakel v. Grace, D.C. Conn. No. 3:12-cv-01669, issued March 7, 2014.