JUDICIARY OF
ENGLAND AND WALES

SUMMARY

Rebekah Vardy -v- Coleen Rooney
[2022] EWHC 2017 (QB): Mrs Justice Steyn DBE

[References in square brackets are to paragraphs in the judgment of the Court.
The judgment has an index to assist identification of the various issues]

1. The Court has handed down judgment in this libel action today, following the trial of the claim on 10-17 and 19 May 2022. The claim has been dismissed. The defendant succeeded in establishing that the essence of the libel was substantially true. The defendant's alternative defence of publication in the public interest was rejected.

2. The Court observed at [8]:

    "Some members of the public have responded to the Reveal Post by subjecting Ms Vardy to vile abuse, including messages wishing her, her family, and even her (then unborn) baby, ill in the most awful terms. Nothing of which Ms Vardy has been accused, nor any of the findings in this judgment, provide any justification or excuse for subjecting her or her family, or any other person involved in this case, to such vitriol."

3. The Court has adjourned consideration of any arguments as to any other orders to be made consequent on the judgment to a further hearing, date to be confirmed, unless such order is agreed or the parties agree that any remaining issues should be determined without a hearing.

Mrs Vardy's Claim

4. The claim for libel arose from a statement that Ms Rooney published on 9 October 2019 ('the Reveal Post') on Twitter, Facebook and her public Instagram account. The text of the Reveal Post is in [2] and [3].

Determination of preliminary issue of meaning

5. The meaning of the Reveal Post was determined as a preliminary issue, by Mr Justice Warby (now Lord Justice Warby), on 20 November 2020 (see Vardy v Rooney [2020] EWHC 3156 (QB)). He determined that the meaning of the words complained of in the Reveal Post (the 'single meaning') is:

"Over a period of years Ms Vardy had regularly and frequently abused her status as a trusted follower of Ms Rooney's personal Instagram account by secretly informing *The Sun* newspaper of Ms Rooney's private posts and stories, thereby making public without Ms Rooney's permission a great deal of information about Ms Rooney, her friends and family which she did not want made public."

Issues for determination at trial

6. The defendant conceded that the Reveal Post is defamatory at common law and that the condition in s.1 of the Defamation Act 2013, that the "publication has caused or is likely to cause serious harm to the reputation of the claimant" is met: [6]-[7].

7. The defendant relied on two statutory defences, namely, the defence of truth (pursuant to s.2 of the Defamation Act 2013) and the public interest defence (pursuant to s.4 of the Defamation Act 2013): [9].

8. The primary issue at trial was whether the defendant had proved that the single meaning was substantially true.

Evidence at the trial

9. The Claimant and the Defendant both gave evidence at the trial. The only other witness for the Claimant was Mr Hamilton, a journalist, whose statement was unchallenged. The witnesses for the Defendant, in addition to herself, were Rachel Monk, Harpreet Robertson, Joe McLoughlin, Claire Rooney, Paul Stretford, Wayne Rooney, Penny Adaarewa and Mark Whittle. Mr Whittle's statement was unchallenged.

10. The Court found that it was necessary to treat the Claimant's evidence with very considerable caution, determining that significant parts of her evidence were not credible. There were many occasions when the Claimant's evidence was manifestly inconsistent with the contemporaneous documentary evidence, evasive or implausible [37]-[42].

11. The Court found that the Defendant, Ms Monk, Ms Robertson, Mr McLoughlin, Ms Claire Rooney, Mr Stretford and Mr Rooney gave honest and reliable evidence. The Court also found that Ms Adaarewa was an honest witness, but considered that her evidence was vague, confused and should be given no weight [52].

12. The Court heard from two experts in the field of computer forensics, Ian Henderson and Matthew Blackband. The Court considered that both experts were well qualified and sought to assist the Court by giving their true, independent opinions. The Court found that the evidence of Mr Blackband regarding the loss of data was compelling [53]-[54], [61]-[64].

Gaps in the evidence

13. The Court accepted that the Claimant's decision not to call Caroline Watt, a key witness to the matters in issue, was motivated to a substantial degree by concern for her friend's welfare [48]. Nonetheless, the Court considered that the primary reason Ms Watt was so reluctant to give evidence, and has suffered adversely from the pressure to do so, was that she knew that to a large extent the evidence she was due to give (but then withdrew) was untrue [43]-[47]. And the Court inferred that the Claimant's decision not to call Ms Watt was in part motivated by an assessment that her evidence, when

tested in cross-examination, would have been likely to have undermined the Claimant's case [48].

14. As regards documentary evidence, the WhatsApp exchanges between the Claimant and Ms Watt during the period from 2017 to 2019 when the Claimant was a follower of Ms Rooney's Private Instagram Account were of particular relevance in determining the claim. However, the media files (images, videos and voicemails) were missing and the original messages were missing. What was available was a text file exported by the Claimant [56].

15. The Court determined that the loss of both the Claimant's and Ms Watt's copies of their original WhatsApp conversation was deliberate rather than accidental [57] to [70]. The Court drew the inference that the missing data would have supported the Defendant's truth defence in relation to the Gender Selection and Flooded Basement Posts, and more broadly.

Decision

16. The Court found that the Claimant, together with Ms Watt, was party to the disclosure to *The Sun* of the Marriage, Birthday, Halloween, Pyjamas, Car Crash, Gender Selection, Babysitting and Flooded Basement Posts. The Court considered it likely that Ms Watt undertook the direct act, in relation to each post, of passing the information to a journalist at *The Sun*, but found that the Claimant knew of, condoned and was actively engaged in this process [285].

17. The Court drew the inference that additional information from the Defendant's Private Instagram Account was likely to have been passed to The Sun by the Claimant and Ms Watt, acting together [286].

18. The Court determined that the Defendant had succeeded in proving that the single meaning was substantially true [287].

19. The Court gave brief reasons for rejecting the alternative defence raised by the Defendant, that publication of the Reveal Post was in the public interest [288]-[289]. The Court found that the Defendant's belief that publication was in the public interest was not reasonable in the circumstances, in particular as the Defendant gave the Claimant no opportunity to respond to the allegation.

NOTE: This summary is provided to help in understanding the Court's decision. It does not form part of the reasons for the decision. The full judgment of the Court is the only authoritative document. Judgments are public documents and are available at: www.judiciary.uk and http://caselaw.nationalarchives.gov.uk/

29 July 2022