

Campus Communications, Inc. v. Earnhardt

821 So. 2d 388 (Fla. Dist. Ct. App. 2002)

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Teresa Earnhardt and the Estate of Dale Earnhardt (“Earnhardt”) obtained an *ex parte* injunction barring the county medical examiner from releasing autopsy photographs of the late Dale Earnhardt. Earnhardt later amended the request to include a permanent injunction, based upon the passage of Florida Statute 406.135. Campus Communications, Inc. (“Campus”), a media company, sought an order to view and copy the autopsy photographs of Dale Earnhardt. Upon the trial court’s finding for the widow, Campus appealed and lost.

Dale Earnhardt was a famous NASCAR driver who was killed in a car crash at the Daytona 500 on February 18, 2001. An autopsy was immediately performed and the written autopsy report, a toxicology report, photographs of the deceased’s car, and a sketch showing the markings on the deceased were promptly available to the public. However, photographs taken during the course of the autopsy were not released because of the Earnhardt injunction. On March 29, 2001 the Florida legislature enacted Florida Statute 406.135 (“Statute”) which made photographs, video and audio recordings of an autopsy confidential upon the showing of good cause. Upon the passage of the Statute, Earnhardt amended the previous injunction request to include a permanent injunction. Campus filed a cross claim against the medical examiner seeking the right to view and copy autopsy photographs under the Florida Public Records Act. The trial court found the Statute to be constitutional and retroactively applicable, and thereby denied Campus’ requests.

In appealing the trial court judgment, Campus argued first that the Statute was overly broad and therefore unconstitutional. The Florida District Court of Appeals (“Court”) disagreed, finding that the Statute was no broader than necessary to serve an identifiable public purpose.

Next, Campus alleged that the statute should not be applied retroactively. Again, the Court disagreed, ruling that there was clear evidence that the legislature intended to apply the statute retroactively because the Statute expressly stated it twice. The Court also ruled that the retroactive application was constitutionally permissible because the Statute was remedial legislation enacted to immediately resolve problems created by public disclosure and to mitigate the harsh provisions of the Public Rights Act.

Finally, Campus argued that the trial court erred in finding that “good cause” was not established under the Statute, which would allow inspection and copying of the photographs. In determining “good cause”, the Statute required consideration of the following four factors: 1) whether disclosure is necessary so that the public can evaluate the government’s performance; 2) the seriousness of the intrusion into the family’s right to privacy; 3) whether disclosure is the least intrusive method available; and 4) the availability of similar information in other public records, regardless of form. The Court found that none of the four factors applied to Campus, therefore the “good cause” argument was rejected.

As the Court found that the Statute was constitutional, properly applied retroactively and that Campus did not establish “good cause” to view the photographs, the Court

affirmed the trial court's holding.

The court stated that their role in this decision was not to weigh the liberties of privacy rights versus access to public information, but rather determine if the Legislature, through enacting the Statute, did not violate constitutional provisions by allowing privacy rights to prevail over public information access. Going forward, similar cases will depend on a state's legislative intent, which means Dale Earnhardt's photos may have been released to the public were it a different jurisdiction, or prior to the enactment of the Statute.