

Libel-Tourism Suffers Setback in Canada

The Supreme Court of Canada has denied leave to appeal from the Ontario Court of Appeal decision in the case of *Bangoura v. Washington Post*. The decision finally decides that Bangoura's Internet-libel claim cannot proceed in Ontario and cements an important precedent against libel-tourism in Ontario.

Cheickh Bangoura sued the Washington Post in Ontario over articles published in 1997, when he was working and living in Nairobi, Kenya. The articles remained available on the Post's internet archive, but there was no evidence that anyone other than Bangoura's lawyer had accessed the articles. Bangoura brought his action in Ontario in 2003, six years after the original publication, and three years after he moved to Ontario.

The Washington Post challenged the jurisdiction of the Ontario courts to hear the case.

An Ontario court judge initially accepted jurisdiction, but he was overturned by the Ontario Court of Appeal, which ruled that the connection between Bangoura and Ontario was "tenuous" - it was not foreseeable that Bangoura would have sued in Ontario, and the case lacked a "real and substantial connection" to Ontario. To hold otherwise, the court said, would mean that a plaintiff could sue anywhere in the world he might decide to establish residence, even long after publication.

The court also recognized a potential detrimental impact for publishers in Ontario, noting that too readily accepting jurisdiction for publications on the Internet "could lead to Ontario publishers and broadcasters being sued anywhere in the world with the prospect that Ontario courts would be obliged to enforce foreign judgments obtained against them".

The Ontario Court of Appeal decision, now made final by the Supreme Court's decision not to hear an appeal, is a victory for the media and for freedom of expression. It means that Canada, unlike England which also has "plaintiff-friendly" libel laws, is unlikely to become a haven for "libel tourists" who seek redress for Internet publications.

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