FILED
JAN 31 1978
CLERK SUPREME COURT

IN THE COURT OF APPEALS OF IOWA

JO ANN GREENSHIELDS and PAMELA LAUGHLIN,	)	Filed January 31, 1978
Appellees,	)	
v.	)	
RICHARD CHRISTIAN and RICHARD STRUB,	)	358 2-59513
Appellants.	)	

Appeal from Polk District Court - Thomas S. Bown, Judge.

Defendants appeal from adverse judgments in emotional distress actions tried to the court. Affirmed.

Donald W. Baird, of Baird, Bowers & Oliver, of Des Moines, for appellants.

Michael J. Laughlin, of Erickson, Seckington, Laughlin & Huston, of Des Moines, for appellees.

Submitted to Allbee, C.J., and Donielson, Snell, Oxberger and Carter, JJ.

PER CURIAM

Defendants Christian and Strub appeal judgments for plaintiffs in damage actions for intentional infliction of emotional distress.

Plaintiffs Laughlin and Greenshields were employed in the composing room of the Des Moines Register and Tribune and were members of International Typographical Union, local no. 118. In May of 1972, both plaintiffs terminated their union memberships. Defendants Christian and Strub who were similarly employed in the composing room retained union membership throughout the period involved in this litigation. Within a two year period following the time plaintiffs left the union, several incidents of harrassment occurred which formed the basis of this action.

The trial court, sitting as a fact finder in this law action, found that all elements of a claim for emotional distress as set forth in Amsden v. Grinnell Mutual Reinsurance Co., 203 N.W.2d 252, 255 (Iowa 1972) had been established against defendants Christian and Strub. These are: (1) outrageous conduct by the defendants; (2) that defendants intended to cause, or recklessly disregarded the probability of causing emotional distress; (3) that plaintiffs suffered severe or extreme emotional distress; and (4) that defendants' conduct was the actual or proximate cause of plaintiffs' emotional distress. Accordingly, the trial court awarded plaintiffs both actual and exemplary damages against defendants Christian and Strub. The claims against the defendant union were dismissed. On appeal, defendants Christian and Strub urge that the findings as to them are without evidentiary support.

The findings of fact of the trial court have the effect of a special verdict. Rule 4, Rules of Appellate Procedure. Those findings bind us if supported by substantial evidence. Rule 14(f)(10) R. App. P.; Herman Ford-Mercury, Inc. v. Betts, 251 N.W.2d 492, 493 (Iowa 1977). Thus, we must construe the evidence in the light most favorable to the trial court's judgment; we do not weigh the evidence or pass on the credibility of witnesses. Whewell v. Dobson, 227 N.W.2d 115 (Iowa 1975). Applying these principles we consider the evidence of the several elements of this cause of action, as set forth in Amsden, supra; Meyer v. Nottger, 241 N.W.2d 911, 918-21 (Iowa 1976); and Restatement, Torts (2d) § 46(1).

I. Outrageous conduct.

Outrageous conduct is that "exceeding all bounds usually tolerated by decent society." Amsden v. Grinnell Mutual Reinsurance Co., supra. Significantly, "it is

seldom that any one such item of conduct is found alone in a case; and liability usually has rested on a prolonged course of hounding by a variey of extreme methods." W. Prosser, Handbook of the Law of Torts § 12 at p. 57 (4th ed. 1971).

The record supports a finding of outrageous conduct by the defendants. The plaintiffs were referred to as "scabs" and "rats" by the defendants, subjected to "sooey" pig calls, profanity and group handclapping. Plaintiff Laughlin testified that a rat trap was placed on her typesetting machine, her chair was often bumped, contents of an ash tray were dumped in her purse, candy corn labelled "food for rats" was given to her, a facial tissue was placed in her soft drink, telephone calls to her home asking for "the rat" or "the scab" were common. Plaintiff Greenshields, the evidence would support, was subjected to the same type name calling and handclapping which were directed at Laughlin. In addition, her eyeglasses were soaped and her chair at work was soaked with water. Laughlin had endured this continual harrassment for more than two years at the time of trial. Greenshields quit the job in September of 1973.

While the evidence does not directly link defendants to each of these acts of harrassment, the record, as a whole, is sufficient to support a finding that the defendants were, as plaintiffs claim, the primary instigators of this harrassment. Defendant Christian admitted animosity toward the plaintiffs after they quit the union. Employees of the composing room testified that both defendants took part in the handclapping and pig calling which were directed at the plaintiffs. One such employee testified further that defendant Strub was at Laughlin's unoccupied desk immediately prior to the discovery of the rat trap. Both Strub and Christian were singled out several times by supervisory personnel and warned to discontinue their actions.

II. Reckless disregard of probability of causing emotional distress.

The trial court found that the defendants' actions were in reckless disregard of the probability of causing emotional distress. Ample evidence supports this finding. Intent to cause emotional distress or reckless disregard of the probability of causing the tort may be inferred from the actions of the defendants. Meyer v. Nottger, 241 N.W.2d 911, 918-19 (Iowa 1976). The course of harrassment continued for more than two years in spite of warnings to the defendants. A composing room employee testified that plaintiff Laughlin was often openly crying or on the verge of tears as a result of the continual harrassment; the effect of the harrassment was apparent to those in the

composing room. The assistant foreman testified that Christian, in response to a warning to stop harrassing the plaintiffs, stated that he may or may not do so.

III. Existence of severe or extreme emotional distress.

Sufficient evidence also exists to support the finding that the plaintiffs suffered severe emotional distress. The evidence shows that after withdrawing from the union plaintiff Laughlin often cried at work, often went to the nurse's office at work, sought the aid of doctors and eventually a psychiatrist. During the period of harrassment she expended hundreds of dollars on prescription antidepressants and tranquilizers and, according to the testimony of friends and family, was often unconsolable after work. Plaintiff Greenshields also visited her doctor regularly during the period in question and took valium three times a day for more than a year. She testified that she quit the job in the fall of 1973 because she "could not take this sort of treatment any longer."

IV. Proximate cause.

Finally, the trial court's finding that the defendants' conduct caused the plaintiffs' emotional distress is supported by the evidence. The plaintiffs were not under regular doctors' or phychiatrists' care for emotional problems prior to the events reported. Nor were the plaintiffs regularly taking antidepressants or tranquilizers. Both required such treatment during the period of harrassment. Accepting the conclusions of divisions I - III above, this final conclusion is reasonably probable and a proper inference to be drawn by the finder of fact.

We have considered all claims presented and find no basis for reversal.

AFFIRMED.