



**ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY**



**Harris/iHeartmedia v. Hon. Warner/McCarthy
CV-21-0242-PR**

PARTIES:

Petitioner: James T. Harris (“Harris”) and iHeartmedia, Inc. (“iHeart”)

Respondent: Daniel McCarthy (“McCarthy”)

FACTS:

Harris is the host of a conservative podcast and radio talk show that is broadcast by iHeart. McCarthy is a businessman and self-described “political hopeful.”

In November 2020, both Harris and McCarthy attended a political rally at the Arizona State Capitol. While Harris was giving a speech to the crowd, some attendees began chanting for McCarthy to speak. Harris stopped speaking and the microphone was passed to McCarthy who then began to speak to the crowd. The parties dispute the passivity or aggressiveness with which each side was acting during the rally.

The following day, during a nine-minute segment on his podcast, Harris spoke about McCarthy and about their interactions at the rally. Harris stated that McCarthy and his followers had been “demanding that [Harris] give them the microphone;” that McCarthy’s supporters were “thugs” who were being “hostile;” and that in Harris’s view, McCarthy had “disqualified himself” from political office based on his actions at the rally. Harris also stated that Harris had been told that McCarthy was not funding his campaign in the manner he had previously stated he would.

The next day, during an eight-minute segment of his podcast, Harris again spoke about McCarthy and the political rally. He described McCarthy and his supporters as “heckl[ing]” Harris and “shout[ing] [him] down” and stated that things had gotten “very, very heated.” Harris then asked his guest to comment.

In February 2021, McCarthy filed a complaint against Harris and iHeart, alleging that the two podcasts contained false and defamatory statements. The complaint sought \$20 million in compensatory damages and \$100 million in punitive damages. Harris and iHeart filed a motion to dismiss, arguing that Harris’s statements on his podcast constituted political speech that was protected by the First Amendment.

The trial court issued an order granting Harris’s motion to dismiss in part; for example, the trial court ruled that Harris’s statements that amounted to name-calling McCarthy were not actionable because they could not be proven true or false. The trial court, however, also found

that some of Harris's statements on the podcast had asserted or implied facts about McCarthy that could be defamatory; for example, the court held that Harris's statements regarding McCarthy's putting money into his campaign could be proven true or false and therefore could be actionable defamation. The trial court thus permitted the case to go forward based on some of Harris's statements in the podcasts.

Harris filed a petition for special action in the court of appeals. The court of appeals declined to accept jurisdiction. Harris then filed a petition for review which this Court granted.

ISSUE:

Whether the Superior Court erred in denying Petitioners' Motion to Dismiss by finding that nine comments made by a conservative commentator on his overtly partisan political talk-show about a politician's and his (non-party) followers' conduct at a political rally are actionable.

DEFINITION:

Black's Law Dictionary defines defamation as "[m]alicious or groundless harm to the reputation or good name of another by the making of a false statement to a third person. If the alleged defamation involves a matter of public concern, the plaintiff is constitutionally required to prove both the statement's falsity and the defendant's fault."

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