

Federal judge: Montana blogger is not journalist

December 8 2011, By JEFF BARNARD , Associated Press

A federal judge in Oregon has ruled that a Montana woman sued for defamation was not a journalist when she posted online that an Oregon lawyer acted criminally during a bankruptcy case, a decision with implications for bloggers around the country.

Crystal L. Cox, a blogger from Eureka, Mont., was sued for defamation by attorney Kevin Padrick when she posted online that he was a thug and a thief during the handling of bankruptcy proceedings by him and Obsidian Finance Group LLC.

U.S. District Judge Marco Hernandez found last week that as a blogger, Cox was not a journalist and cannot claim the protections afforded to mainstream reporters and news outlets.

Although [media](#) experts said Wednesday that the ruling would have little effect on the definition of journalism, it casts a shadow on those who work in nontraditional media since it highlights the lack of case law that could protect them and the fact that current state shield laws for journalists are not covering recent developments in online media.

"My advice to bloggers operating in the state of Oregon is lobby to get your shield law improved so bloggers are covered," said Lucy Dalglish, executive director of The Reporters Committee for Freedom of the Press. "But do not expect the shield law to provide you a defense in a libel case where you want to rely on an anonymous source for that information."

The judge ruled that Cox was not protected by Oregon's shield law from having to produce sources, saying even though Cox defines herself as media, she was not affiliated with any mainstream outlet. He added that the shield law does not apply to civil actions for defamation.

Hernandez said Cox was not a journalist because she offered no professional qualifications as a journalist or legitimate [news outlet](#). She had no journalism education, credentials or affiliation with a recognized news outlet, proof of adhering to journalistic standards such as editing or checking her facts, evidence she produced an independent product or evidence she ever tried to get both sides of the story.

Cox said she considered herself a journalist, producing more than 400 blogs over the past five years, with a proprietary technique to get her postings on the top of search engines where they get the most notice.

"What could be more mainstream than the Internet and the top of the search engine?" she said.

Padrick, of Bend, Ore., was a trustee in a bankruptcy case involving Summit Accommodators, a company that helped property owners conduct real estate transactions in a way to limit taxes. Three executives face federal fraud and money laundering indictments.

The lawyer sued Cox for defamation, a legal fight that is typically difficult for plaintiffs to win. Public figures, for example, must prove the defendant knew the statement in question was false, and the statement must be matters of public interest.

The judge found that Padrick was not a public figure, and that the bankruptcy case was not in the public interest. The ruling opened the way for a jury to award \$2.5 million to Padrick and Obsidian.

Cox said she didn't have the money to pay the judgment, and that she intended to keep posting about the Summit bankruptcy case.

"My intensions are the highest and best," she said. "I know I am sometimes over the top or a little bit vulgar. But I encourage people not to listen to me or him but to look at the documents and make their own decision based on that."

Padrick said the case showed how vulnerable anyone was to someone with a computer. He said he has lost business from potential clients who search his name and firm through Google and find Cox's postings at the top of the list, adding that he has no way to remove them.

"If anyone can self-proclaim themselves to be media, the concept of media is rendered worthless," Padrick said. "When everyone is media, the concept of media is gone."

The judge ruled that Padrick and his company did not have to seek a retraction, as required by Oregon law, before claiming damages, because a blogger is not on the list of recognized media, which include newspapers, magazines, television and radio news, and motion pictures.

Padrick said he did not expect to collect much of the \$2.5 million jury award, or to see his business fully rebound. He said his only consolation was that all eight jurors who heard the case believed he had been significantly harmed.

Ellyn Angelotti, who teaches about digital trends and social media at The Poynter Institute, said the ruling was significant because so little case law has built up on online media. But she believed it would have little impact on bloggers in general until the U.S. Supreme Court takes up a case, or more federal courts rule.

Kyu Ho Youm, a First Amendment expert and journalism professor at the University of Oregon, called the judge's strict definition of a journalist "outdated" since so-called citizen journalists currently outnumber traditional journalists.

"When we talk about the shield law, we should pay more attention to the function people are doing than whether people are connected to traditional and established news media," he said.

©2011 The Associated Press. All rights reserved. This material may not be published, broadcast, rewritten or redistributed.

Citation: Federal judge: Montana blogger is not journalist (2011, December 8) retrieved 21 May 2024 from <https://phys.org/news/2011-12-federal-montana-blogger-journalist.html>

<p>This document is subject to copyright. Apart from any fair dealing for the purpose of private study or research, no part may be reproduced without the written permission. The content is provided for information purposes only.</p>
--