Culture

News



Nick Sandmann, a junior at Covington Catholic High School in Park Hills, Ky., and other students from the school stand in front of Native American Nathan Phillips near the Lincoln Memorial in Washington in this still image from video Jan. 18, 2019. (CNS/Kaya Taitano, social media via Reuters)



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A federal judge July 26 dismissed a $250 million lawsuit against The Washington Post by a Kentucky Catholic high school student, ruling the newspaper's articles and tweets about the student's actions after the annual March for Life in January were protected by the First Amendment.

Nick Sandmann, a student at Covington Catholic High School in Park Hills, Kentucky, sued the newspaper five months ago, claiming its coverage of what transpired at the Lincoln Memorial Jan. 18 — when Sandmann, wearing a "Make America Great Again" hat smiled just inches away from Nathan Phillips, a Native American leader, as he chanted and beat a drum — was biased.

The suit claimed there were "no less than six false and defamatory articles" in the newspaper about the encounter, which had gone viral almost immediately.

In his 36-page ruling, U.S. District Judge William Bertelsman examined each of the 33 statements in question and found none of them to be defamatory and the vast majority to be quoting opinion, which is protected free speech.

"The statements that Sandmann challenges constitute protected opinions that may not form the basis for a defamation claim," he wrote.

The student, then a junior, claimed in the lawsuit that a Jan. 19 article of The Washington Post indicated that he "assaulted" or "physically intimidated" Phillips and also had "engaged in racist conduct" and jeers.

"This is not supported by the plain language in the article, which states no such thing," the judge wrote. He also stressed that many of the statements in the articles referred to the group of students, not to Sandmann specifically.

By quoting Phillip's account of what occurred that day, the newspaper may have been inaccurate, Bertelsman said, but to be sued for libel, the Post's reporting had

to be both false and defamatory.

The judge also looked at both sides of the Jan. 18 incident and said even if Sandmann's intent during the incident that day was to "calm the situation and not impede or block anyone," he pointed out that "Phillips did not see it that way." The judge wrote that Phillips told the Post he felt he was being "blocked" and not allowed to "retreat."

His observations may have been erroneous, the judge wrote, but he said they are opinions "protected by the First Amendment. And the Post is not liable for publishing these opinions."

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Sandmann's parents said they would appeal the ruling, The Washington Post reported July 26. In a statement, the student's father, Ted, said: "I believe fighting for justice for my son and family is of vital national importance. If what was done to Nicholas is not legally actionable, then no one is safe."

Sandmann's lawsuit went through every detail of what happened Jan. 18 when the students who had attended the March for Life were waiting for their buses to go home.

On Jan. 19, clips from a video that went viral almost immediately, showed these students surrounding Phillips while appearing to be mocking him. The clip caused immediate outrage, particularly on social media. But by the next day, extended footage of how the situation unfolded revealed that another group had taunted the students and some responded back. Phillips said he had had walked over to the students and the group as an intervention.

After the initial video went viral, Sandmann said in a statement that he had "received physical and death threats via social media, as well as hateful insults."

Sandmann's school and the Diocese of Covington initially condemned the students' behavior but then backed down as more information came forth and they called for a third-party investigation into the situation.

The conclusion of that report, released by the Covington Diocese Feb. 13, found no evidence that the students had issued "offensive or racist statements" that they had been accused of doing.

In a letter to parents of Covington Catholic High School, Bishop Roger J. Foys of Covington said his hope that the investigation would "exonerate our students so that they can move forward with their lives has been realized."

In its motion to dismiss the libel suit against them, The Washington Post stood by its original stories, saying they did not impugn Sandmann's reputation.

The day the ruling was issuing dismissing the case, the Post quoted its director of communications, Shani George, as saying: "From our first story on this incident to our last, we sought to report fairly and accurately the facts that could be established from available evidence, the perspectives of all of the participants, and the comments of the responsible church and school officials."

"We are pleased that the case has been dismissed," she added.