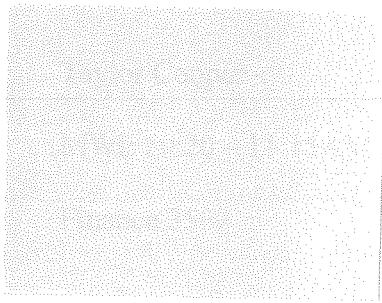




Revell v. Lidov

Facts: Hart G.W. Lidov (known hereafter as “Lidov”) is an Assistant Professor of Pathology and Neurology at the Harvard Medical School and Children's Hospital. Oliver “Buck” Revell (known hereafter as “Revell”) is a former Associate Deputy Director of the FBI, and resides in Texas. Lidov wrote an allegedly defamatory article about Revell. In the article, Lidov claimed that Revell, while acting as Associate Deputy Director, and other government officials, failed to take steps to stop a terrorist plot to bomb an airplane despite clear advance warning and then conspired to cover up their knowledge. Lidov posted the article on a Columbia University bulletin board where users could post their own works and read the works of others. Moreover, members of the public could view the articles on the bulletin board.

Revell, a resident of Texas, sued the Board of Trustees of Columbia University, whose principal offices are in New York City, and Lidov, a resident of Massachusetts, in the United States District Court for the Northern District of Texas. Revell claimed the article Lidov wrote damaged his professional reputation in Texas and caused him to suffer emotional distress.

Revell is appealing the district court's decision that granted both defendants' motions to dismiss for lack of personal jurisdiction under Federal Rule of Civil Procedure 12(b)(2).

Issue: Whether the district court could properly exercise personal jurisdiction over Lidov and Columbia University.

Holding: The court affirmed the district court's decision to grant the defendants' motion to dismiss. The court found the contacts with Texas insufficient to establish the jurisdiction of its courts, and hence the federal district court in Texas, over Columbia and Lidov.

Analysis: In deciding the case, the court examined whether the defendants had "sufficient minimum contacts" with the forum state - Texas - as required by the Due Process Clause of the Fourteenth Amendment for a court to exercise personal jurisdiction over a non-resident defendant. The court noted that sufficient minimum contacts will give rise to either general jurisdiction (where the defendant's contacts are unrelated to the specific claim but the defendant has continuous and systematic contact with the forum state) or specific jurisdiction (where the defendant's contacts arise from or are directly related to the cause of action).

The court first rejected Revell's argument that sufficient contacts existed to establish general jurisdiction. The court held that although the maintenance of a website is, in a sense, a "continuous" presence everywhere in the world, Columbia's contacts with Texas were not "substantial." The court noted that Columbia had never received more than twenty internet subscriptions to the *Columbia Journalism Review* from Texas residents.

The court then rejected Revell's argument that specific jurisdiction existed. The court applied a sliding scale test from *Zippo Manufacturing Co. v. Zippo Dot Com, Inc.* to determine if either of the defendants had sufficient minimum contacts with Texas.

Although the court of appeals disagreed with the district court's conclusion that Columbia's website was "passive" (which, under *Zippo*, automatically would have led to the conclusion that there were insufficient contacts with Texas to establish specific jurisdiction), the court still found that jurisdiction did not exist. Applying the "effects" test discussed in *Calder v. Jones*, the court found that the defendants did not possess sufficient minimum contacts. This test effectively says the plaintiff must show that the defendants knew the plaintiff would suffer the brunt of the harm caused by the tortious conduct in the forum, and point to specific activity indicating the defendants expressly aimed their tortious conduct at the forum. In this case, the court found "the post to the bulletin board here was presumably directed at the entire world, or perhaps just concerned U.S. citizens. But certainly it was not directed specifically at Texas." Furthermore, according to his affidavit, Lidov had no knowledge that Revell resided in Texas at the time the content was published on the bulletin board. In conclusion, this conduct was not sufficient under the "effects" test to establish specific jurisdiction.