

SOUTH AFRICA / JUDGMENT

Van Stryp v Healy (A2024/029832) [2025] ZAGPJHC 675 (15 July 2025)

[2025] ZAGPJHC 675**COURT**

South Gauteng High Court, Johannesburg

BEFORE

Wilson, Du Plessis, Meaden

CASE / FILE NUMBER

A2024/029832

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Source record**FLYNOTES:**

CIVIL LAW – Defamation – Social media – Statements posted on Facebook – No posts constituted defamation or actionable insult – First 6 posts were either humorous or part of robust debate – Insufficiently harmful to meet legal thresholds – Would not be seen by a reasonable person as damaging appellant’s reputation – Seventh post was potentially defamatory but not proven to refer to appellant – Posts did not rise to level of legal wrongdoing under defamation or iniuria principles – Appeal dismissed.

IN
THE HIGH COURT OF SOUTH AFRICA
(GAUTENG
DIVISION, JOHANNESBURG)

Case
no: A2024-029832
(1)
REPORTABLE: NO
(2)
OF INTEREST TO OTHER JUDGES: NO
(3)
REVISED.
DATE: 15 July 2025

In the matter between: GISELA
 VAN STRYP
 Appellant
 and
 JAYNE
 HEALY
 Respondent
CORAM: WILSON J, DU PLESSIS J AND
 MEADEN AJ

JUDGMENT

MEADEN AJ (dissenting):

1 This is an appeal against the whole order of the court below, where the Magistrate dismissed the application for reasons set out in detail below. The respondent did not oppose the appeal.

2 In prosecuting the appeal, the appellant faced the challenge that the only available transcript is the appellant's examination in chief and part of her cross-examination. No recordings could be found for the testimony of four other witnesses in the trial on the Magistrate Court's server. The only contemporaneous record of evidence presented at trial is the summary contained in the judgment.

3 The appellant submits that the court a quo's summary suffices as a reconstructed trial record and that its incompleteness does not ipso facto preclude the hearing of this appeal. The respondent disagreed and proposed that the matter be remitted for a retrial. She has, however, not opposed the appeal, nor did she file opposition to the appellant's contention that the information available is enough to prosecute the appeal.

4 The question is whether the missing testimony has any bearing on the issues raised in the appeal. This will depend on the issues to be decided on appeal.

5 The issues to be decided are the following:

5.1 The court a quo confined itself to the appellant's defamation causes of action and failed to deal with the appellant's insult (iniuria) causes of action. The dismissal of the appellant's claims in toto occurred without any reasons whatsoever vis-à-vis the insults (iniuria claims) being considered and provided by the presiding Magistrate;

5.2 the court a quo erred in failing to find that each of the seven statements published by the respondent (defendant a quo) were subjectively and objectively insulting to the appellant, thus resulting in the respondent failing to discharge her consequent onus or rebut the presumption that such insulting statements were wrongful and made animus iniuriandi;

5.3 the court a quo erred in finding that the appellant had failed to prove by means of third-party witnesses that the "innuendos" flowing from the respondent's statements carried and will be understood by an ordinary reader to carry defamatory and insulting implied meanings. Implied meanings of the statements are distinct from innuendos and this is an objective question for the court to consider and determine where no witness evidence is admissible;[1]

5.4 the court a quo erred in admitting and placing weight on the evidence of third-parties concerning the meanings of the statements and such evidence in the circumstances then being inadmissible;[2]

5.5 the court a quo erred in finding that the respondent's references to "stupid people" and "stupidity" were not references to the appellant and in circumstances where the context of the statement made it clear to the ordinary reader that the respondent could only have been referring to the appellant and the respondent conceding under cross-examination that when referring to "stupid people" and "stupidity", she was referring to the appellant; and

5.6 the court a quo erred in finding that it was not defamatory to state that another person is stupid.

6 Whether statements bear defamatory meanings are objective questions of law on which no oral evidence is admissible.[3] It thus is evident that the appellant attacks the court a quo's findings of law, not its findings of fact. On this basis, per the appellant, the evidence led at trial is irrelevant to issues to be decided on appeal, namely whether the court a quo made one or more errors of law. And for that, the information on record is sufficient.

7 The appellant submitted that the pleadings are adequate for a just consideration of whether the publications admitted by the respondent defamed and/or insulted the appellant and were accordingly wrongful and had the necessary animus iniuriandi.

8 Considering the aforesaid, I agree with the appellant that the matter need not be remitted to the court a quo for retrial and that this Court should hear the above appeal based on the records available.

Merits

9 This case entails vindicating the dignity and reputation of a professional woman (a business rescue practitioner) who was subjected to embarrassing and humiliating insults made in various Facebook posts that were published to approximately 1 800 members of the Dainfern Golf Estate Facebook Group. This Facebook Group is a closed group encompassing all residents of Dainfern Golf Estate.[4] The group aims to create a greater community within the Dainfern Golf Estate.

10 A disagreement arose on Facebook amongst the group members about whether jackals should be roaming freely in the Dainfern Golf Estate. The appellant (among other people) felt that the jackals were

mesopredators posing a danger to other animals, including domestic pets and also carrying rabies. The respondent, amongst other people, disagreed, believing that the Estate was a nature reserve and all wildlife therein (including the jackals) should be left alone.

11 The appellant occasionally posted news reports and other material on the group, believing this would illuminate the debate. She did so in good faith and in the spirit of neighbourly engagement.

12 Before 10 November 2021, this debate had been civil. However, between 10 and 12 November 2021, the respondent published seven posts directed at and involving the appellant, which the appellant submits severely insulted her person, good name and dignity.

13 The seven posts that were published by the respondent on the above Dainfern Golf Estate Facebook Group over the period 10-12 November 2021 were:

13.1 The posting of an image of a cat in a spiked vest, with a comment, "Gisela van Stryp maybe this will help the cats" ("1st post");

13.2 stating to the appellant, "really you shouldn't be living in Africa" ("2nd post");

13.3 alleging that the appellant had repeatedly published "false information on the group" ("3rd post");

13.4 referring to the appellant as a "B", which the appellant understood to mean "bitch" ("4th post");

13.5 referring to the appellant on two separate occasions as being "stupid" ("5th and 6th posts") and

13.6 caricaturing the appellant as a dog and "a Karen" ("7th post").

14 The court a quo considered these statements separately. The appellant submitted that these publications should be viewed and considered in context and collectively. For reasons set out below, I agree.

15 The appellant, via her attorneys of record on 22 November 2021, addressed correspondence to the respondent informing her that she is of the view that these comments:

15.1 "... collectively creates the impression that our client is not suitable to reside in Africa (GS4), that our client is a stupid keyboard Muppet (GS5), that our client is a dog (GS6), that our client consistently post false information, that our client has a Bitch problem and once again that she is stupid (GS7)" and

15.2 requested that due to her "...reckless, malicious and undeserved attack on our client and her reputation we hereby require the following: an immediate, written apology being issued to our client on the Facebook Group and an unconditional retraction of your harmful statement to our client's satisfaction, your unconditional confirmation that you will not post any more defamatory, insulting and/or false statements about of client without further delay on the residents of Dainfern Golf Estate Facebook Group of elsewhere".

16 The respondent did not retract her entries made on the Facebook Group page, provide an apology, or undertake not to make any further publications vis-à-vis the appellant. This matter could have been resolved at that moment, still the respondent preferred to leave the appellant affronted.

17 This culminated in the appellant suing the respondent for damages (R 250 000.00) and simultaneously seeking interdicts directing the respondent to remove her above publications from the Facebook Group page, publishing an apology to the appellant and restraining the respondent in publishing other statements directly or indirectly referring to the appellant on any public forum, and with that, also seeking an award as to costs of suit.

18 The appellant instituted an *actio iniuriarum* citing injury to her dignity (insult) and damage to her reputation (defamation).[5] The court *a quo* dismissed the appellant's action.

19 The appellant avers that the court *a quo* disregarded the appellant's injury to dignity claims and provided no reasons therefor. Instead, the court based its judgments on reasons removed from the trite principles of the *actio iniuriarum*.

The law

20 The *actio iniuriarum* is an action aimed at remedying the intentional infringement of personality rights (*corpus, dignitus and fama*).[6] In this context, a single action can be resorted to vindicate *fama* (reputation or public esteem) and *dignitus* (dignity or self-esteem), the former being known as the delict of defamation and the latter as the delict of insult (or *iniuria*).

21 In a combined action for defamation and insult, the plaintiff will succeed if one or the other delict is established, i.e. where it is found that statements were not defamatory of the plaintiff, but constituted an insult to the plaintiff.[7]

The defamation claim

22 The Constitutional Court in *Le Roux v Dey* reaffirmed the necessary elements of a defamation claim.[8] The elements are:

22.1 the wrongful and

22.2 intentional

22.3 publication

22.4 of a defamatory statement

22.5 concerning the plaintiff.

23 The Constitutional Court restated that the plaintiff does not bear the onus of proving every element of the action. Instead, upon a plaintiff establishing that the defendant published a defamatory statement concerning the plaintiff, it is presumed that the publication was both wrongful and intentional. The onus of proof then rests on the defendant to rebut the presumption that the publication was made wrongfully and intentionally.[9] The defendant bears a full onus in adducing evidence discharging this onus on a preponderance of probabilities. A bare denial by the defendant will not suffice and facts must be pleaded and proved to establish a defence.[10]

24 Whether a statement is defamatory is an objective test. The criterion is what meaning a reasonable reader of ordinary intellect would attribute to the statements, with reference being had to what is expressly stated and implied. Once the statements are found to be defamatory, it is likely to injure the good esteem in which a person is held.

25 In this case, the appellant needed to show that the statements made on the Facebook Group were defamatory and referred to her. To avoid liability, the respondent then needed to prove that her statements were made lawfully and without the intention to defame the appellant (i.e. without animus iniuriandi).

26 The delict of insult differs from the delict of defamation in that it is not concerned with the lowering of the plaintiff's esteem in the eyes of others. What matters here is whether the offending statements injured the plaintiff's dignity or self-worth.

27 Upon the plaintiff establishing the wrongfulness of the overt conduct, it is presumed that the defendant acted intentionally and all that is left is for the plaintiff to show that her dignity was impaired. A wrongful act is one that would be of an insulting or offensive nature.

28 In rebutting the presumption of wrongfulness in a defamation action, the defendant may raise one or more of the three common defences, which are that the defamatory statement was:

28.1 true and for the public benefit;[11]

28.2 constituted a fair comment;[12] and/or

28.3 was made on a privileged occasion.[13]

29 In her defence in the court a quo, the respondent raised the defence of public benefit and fair comment. For a truth and public benefit defence to be sustained, the respondent must show here that what she said about the appellant was, in fact, true and that it was in the public interest/benefit to know.

30 In her pleadings, the respondent also referred to some of her statements being made in jest. The Constitutional Court in *Le Roux v Dey* referenced that "the mere fact that a statement raised a laugh does not mean that it is not defamatory." [14] The Court further endorsed that recorded by the Supreme Court of Appeal in the same case that:

"...if a publication is objectively and in the circumstances in jest it may not be defamatory. But there is a clear line. A joke at the expense of someone – making someone the butt of a degrading joke – is likely to be interpreted as defamatory. A joke at which the subject can laugh will usually be inoffensive." [15]

31 The Constitutional Court distinguishes between legitimate and illegitimate jest, stating that a joke will be defamatory or insulting where a reasonable observer, even whilst laughing, would understand the joke as belittling the plaintiff and in the process make them look foolish and unworthy of respect, or expose them to ridicule and contempt. [16]

32 In this case, the appellant argued in the court a quo that the respondent's statements amounted to "unwarranted slating which lowered the appellant's esteem and which were not at all necessary in commenting upon the appellant's conduct and views." In *Mangope v Asmal*, [17] the court held that where there is an unwarranted slating which lowers the affected party in the esteem of his fellow human beings and which is not at all necessary, a court will be more readily inclined to protect such party's dignity and reputation.

33 During the trial, counsel for the appellant objected to the respondent leading evidence of two witnesses establishing the meaning of impugned statements. The Constitutional Court has affirmed that in interpreting the *actio iniuriarum*, witness evidence on the meaning of a statement is inadmissible. This is so since the determination of meaning is an objective inquiry of law undertaken by the court. It is not up to the witness to tell the court what an alleged defamatory statement means.

34 Despite this, the Magistrate allowed evidence from two witnesses called on behalf of the respondent regarding the meaning and interpretation of statements made by the respondent. These witnesses' testimonies should have been excluded in their entirety and given that such testimonies were irrelevant and inadmissible. This was a clear material misdirection on the part of the Magistrate and which taints the whole judgment.

35 In applying the above legal framework to the actual insult incidents referred to in paragraph 13 above, these are now dealt with

below.

Post 1: "Maybe this will help the cats"

36 The respondent posted an image on the group of a cat wearing a spiked vest, coupled with the statement "Gisela van Stryp maybe this will help the cats". [18] In so doing, the respondent not only used the appellant's full name but also tagged [19] the appellant's Facebook account, thus clearly directing the comment and image at her. This was common cause.

37 This first publication was seen as an escalation in the dialogue about the jackal issue by the administrator of their Facebook Group. Here, the Facebook administrator cautioned the respondent not to mention specific individuals in a group by name. The plausible explanation flowing herefrom, is that this first publication on the part of the respondent carried with it a derogatory and insulting meaning.

38 The Magistrate reasoned[20] that the respondent's posting of the spiked vest cat image out of the blue occurred to encourage and help cat owners to buy jackets to protect their cats from jackals. Further, the court a quo held that in the absence of any reasonable explanation that precipitated the respondent publishing the above, the court found that the defendant lacked intention intended to injure the dignity of the appellant.

39 However, from a subjective and objective perspective, the combination of the above image, associated statement and tagging of the appellant was clearly designed to ridicule and insult the appellant. In these circumstances, the appellant had discharged the onus of proving that the 1st insult was defamatory of her and impaired her dignity.

40 Further, the respondent's plea asserted that the above publication was a joke. As pointed out above, there is a difference between legitimate and illegitimate

jokes. The respondent failed to discharge her onus in proving that the above combination of the publicized statement, spiked cat image and associated tagging of the appellant was undertaken in legitimate jest. Per the principles stated by the Constitutional Court in *Le Roux v Dey*,[21] the aforesaid made the appellant the butt of the joke and which joke was, in turn, meant to degrade and humiliate the appellant.

41 As a result, the presumptions of wrongfulness and animus iniuriandi were not rebutted on the probabilities and both the defamation and insult claims relating to the 1st insult should have succeeded.

Post 2: "You really shouldn't be living in Africa"

42 In response to a further post by the appellant that there had been a suspected jackal attack on a hedgehog within the Estate on 10

November 2021, the respondent posted on 11 November 2021:

"Gisela van Stryp you really shouldn't be living in Africa as I have said before New York would suit you best."

43 The respondent pleaded that this second statement was made in jest, alternatively, was not defamatory and, further alternatively, was fair comment. The respondent presented no factual insights in her examination-in-chief regarding this statement being made either in jest or as fair comment.[22]

44 The Magistrate found[23] that the appellant did not succeed in her testimony in proving the facts and circumstances regarding why she found the respondent's above comment despicable. The court a quo further reasoned that the comment did not depict that the appellant was deserving of contempt and accepted the respondent's proposal that anyone not happy with wildlife in Africa must perhaps consider relocating.

45 Again, the above statement cannot be construed as fair comment, since none of the requirements to confirm and establish fair comment were pleaded by the respondent or substantiated at trial.

46 The above insult statement is both defamatory and insulting to the appellant and the respondent adduced no credible evidence to rebut the presumption of wrongfulness and intention to defame.

47 Accordingly, both the defamation and insult claims with respect to the 2nd post should have succeeded.

Post 3: "She has put false information on this page"

48 This 3rd statement posted by the respondent on 12 November 2021 in response to a comment by a fellow member; Karen Roets Giannopoulos, entails the respondent referencing the appellant having previously posted "false information... a number of times".

49 In the respondent's plea, the respondent did not deny that the above statement carried a defamatory meaning. In *Le Roux v Dey*, the Constitutional Court held that the attribution of dishonesty to a person is per se defamatory. In her plea and further at trial, the respondent was also unable to point to any single instance where she had ever "corrected" the appellant. In short, accusing the appellant of misinformation and lies was never something that the respondent, on her own version, could assert as being true. It was merely her opinion of the appellant's conduct and stated as a fact which was defamatory.

50 The Magistrate contended that[24] although the published comment was indeed a conversation between the respondent and Karen Roets about the appellant, considering that the actual cause of death of the hedgehog remained disputed between the appellant and respondent; there was nothing in the comment to denote that the publication was intended and did injure the reputation of the appellant.

51 In reaching the above conclusion, the presiding Magistrate misdirected himself in disregarding that the respondent could not confirm and establish that the appellant had engaged in and circulated misinformation and lies at any time. Accordingly, the claims of both defamation and insult introduced by the appellant should have succeeded in respect of the 3rd insult.

Post 4: "She has a B problem"

52 A publication on Facebook dated 12 November 2021 indicates correspondence between the respondent and Ms KR Giannopoulos. The comment states:

"...Now Sweetheart if I had an issue with her please believe me you and everyone else will know about it, the facts she has a B problem with wild animals is a concern...".

53 Having regard to the manner in which the respondent had pleaded her case, the respondent stands or falls by whether "B" stood for "Bitch", which is an objective inquiry. In *Madito v Peega*, [25] the court stated that "it can never be accepted as a norm of society that a woman can be defamed in public by inter alia; being referred to as a bitch, with no consequences." Further, the respondent, for her own part and per her testimony, had at no time attempted to defend her use of the "B" word.

54 The court a quo opined[26] that an ordinary meaning of "B", taken in context of the whole comment is "Big problem" rather than "Bitch problem".

55 The Magistrate provided no further insight in reaching this conclusion. Given the context and train of these communications by the respondent of and to the appellant, objectively, a reasonable reader would have interpreted the letter "B" to be that of "Bitch" vis-à-vis the appellant. The claims of both defamation and insult should have succeeded in respect of this 4th insult.

Posts 5 and 6: "My tolerance for stupidity is not very good"

56 On 12 November 2021, the respondent published a comment on the Facebook group stating, inter alia, the following:

"...the only issues I have is stupid people and anyone who has a problem with the wildlife in this estate..."

57 The respondent pleaded that this statement did not refer to the appellant since the appellant was not mentioned by name. At trial, the respondent conceded that in her view, people who held views on the jackals like those of the appellant were "misinformed" and, to her, "stupid" meant misinformed.

58 The court a quo held[27] that it cannot be insinuated that the defendant was referring to the appellant in her comments as the name of the appellant was not mentioned. The court a quo refused to draw an inference and instead held that the comment refers to "stupid people", with the Court a quo not identifying the stupid people in question and with that, anyone who had a problem with wildlife in the Estate. Also, the court a quo found it doubtful that the word "stupid" or "stupidity" could be labelled as defamatory.

59 From the context of the above statement and the plain meaning of the words, it is apparent that the respondent was indeed referring to the appellant and this was conceded by the

respondent in circumstances where the respondent's reference to "she" and "her" referred directly to the appellant. With this, the respondent failed to discharge her onus and in proving that these insults were not intentional and wrongful.

60 In arriving at the above conclusion, the Magistrate again misdirected himself. The claims of both defamation and insult accordingly should have succeeded in respect of the 5th and 6th posts.

Post 7: "What's this dog's name?"

61 On 12 November 2021, the respondent published an image of a dog with a bob haircut with the caption "what's this dog's name" together with the comment "it looks like a Karen".

62 In her plea, the respondent admitted that the image was removed from Facebook by its moderators and in circumstances where the moderators construed it as violating the website rules. The respondent, under cross-examination, attempted to aver that "Karen" here meant Karen Roets Giannopoulos, the party she had been communicating with when exchanging the above publication on Facebook. This, however, was not referenced in the respondent's plea. The only plausible interpretation of the post is that it referred to the appellant and sought to caricature her as a dog and brand her "a Karen", and which constitutes ridicule and contempt.

63 The presiding Magistrate made no findings here and simply dismissed the 7th complaint. The Magistrate was misguided in so doing.

64 Placing the aforesaid in context and including with the above six insults, a reasonable reader would have understood the post to be referring to the appellant and which was defamatory and insulting of the appellant. Notably, the respondent adduced no evidence to rebut the resulting presumptions of wrongfulness and intention and the claims of both defamation and insult should have succeeded in respect of the 7th post.

65 In summary, dismissing the appellant's claims in toto, the court a quo erred in:

65.1 failing to find that each of the seven statements, together with associated publications published by the respondent, were both subjectively and objectively insulting of the appellant and further that the respondent had failed to discharge her consequent

onus to rebut the presumption that such insulting statements and publications were wrongful and aware animi iniuriandi;

65.2 finding that the appellant had failed to prove and via third-party witnesses that the innuendos each of the respondent's statements carried would be understood as such by ordinary readers. In this regard, the appellant's case was not that the respondent's statements and publications carried certain defamatory and insulting innuendos, but rather that they carried defamatory and insulting

implied meanings. Implied meanings are distinct from innuendos per *Le Roux v Dey*.^[28] The implied meaning of a statement is an objective question on which no witness evidence is admissible;^[29]

65.3 admitting and placing weight on evidence of the third-party witnesses called by the respondent regarding the meaning of statements; such evidence being inadmissible;^[30]

65.4 finding that the respondent's references to "stupid" people and "stupidity" were not references to the appellant and in circumstances where:

65.4.1 the context of the statements made it clear to the ordinary reader that the respondent could only have been referring to the appellant,

65.4.2 the respondent had conceded under cross-examination that when referring to "stupid" people and "stupidity", she was referring to the appellant; and

65.5 finding that it is not defamatory to state that another person is stupid.

66 Presented with the aforesaid, I would set aside the above Order of the Honourable Magistrate Mathopa dated 19 February 2024 and substitute such Order with the undermentioned.

67 In so doing, this Court is also mindful that the appellant in suing the respondent for damages here, did so modestly and out of the Magistrates Court. Both parties were represented by legal counsel. In curtailing the damages being eroded by the costs, I am inclined to allow costs in the Magistrates Court on the attorney and client scale and inclusive of the actual costs of legal counsel

incurred by the appellant in the conduct of its Lower Court action.

Order

68 I would order that:

68.1 The respondent remove her above statements, images and associated publications relating to the appellant from the Facebook Group within 10 days of this Order.

68.2 The respondent publish an unconditional written apology to the appellant on the Facebook Group, the wording of which is to be approved by the appellant and within 10 days of the date of this Order.

68.3 The respondent is interdicted and restrained from publishing any other statements directly or indirectly referring to the appellant on any public forum and including that of the Dainfern Golf Estate Facebook forum.

68.4 The respondent pay the appellant pecuniary damages calculated in the amount of R 200 000.00 (two hundred thousand rands) and within 30 days of the date of this Order.

68.5 The respondent pay the costs of the Lower Court process launched under case number: 3019/2022 on the attorney and client scale, inclusive of the actual cost of the legal counsel incurred by the appellant in the conduct of this Lower Court action.

68.6 The costs of this appeal to this Honourable Court under case number: A2024/029832 shall be borne by the respondent and in accordance with scale A in respect of legal counsel fees per Rule 69(7) of the Uniform High Court Rules.

J R MEADEN

Acting Judge of the High Court

WILSON J and DU PLESSIS J (majority):

69 Du Plessis J and Meaden AJ heard oral argument in this appeal on 20 March 2025. Having conferred amongst themselves, Du Plessis J and Meaden AJ were unable to agree on the proper disposal of the appeal. As a result, the Deputy Judge President, acting under

section 14 (3) of the Superior Courts Act 10 of 2013, allocated Wilson J as a third Judge to break the deadlock. The parties were asked to indicate whether they wished to re-argue the appeal before the reconstituted bench. On 1 July 2025, both parties indicated that they were content for the matter to be determined without a rehearing. Judgment was reserved on that date.

70 We have had the benefit of the judgment of our brother Meaden AJ. We gratefully adopt the way that he refers to the seven posts at issue in this case. We also agree that the appeal may safely be determined on the material before us, because no evidence is

required to reach a conclusion on whether the impugned statements were defamatory or actionably injurious, and because the one point on which the evidence is relevant concerns a factual finding made by the court below which we regard as clearly correct, and with which we cannot in any event interfere.

71 Despite these points of agreement, we would dismiss the appeal.

72 Discourteous remarks made in the course of a debate on a point of common interest do not in themselves amount to defamation. What is required, in addition, is that such remarks lower the person to whom they are addressed in the estimation of the reasonable observer, who is representative of “ordinary intelligent or right-thinking members of society” (*Hix Networking Technologies v System Publishers (Pty) Ltd* [1996] ZASCA 107; 1997 (1) SA 391 (A) at 403G-H).

73 It seems to us that post 1 was made in jest, and that a reasonable person would not have understood the jest to have denigrated the appellant, Ms. van Stryp, in any way. It is accordingly not defamatory. We do not think that there is any basis for accepting that post 4 actually referred to Ms. van Stryp as a “bitch”. Beyond that, posts 2 to 6 were not defamatory because the reasonable reader would have understood them in context: as part of the cut and thrust of a debate about what should be done

about a jackal roaming a housing estate on which parties lived. We accept that the respondent, Ms. Healy, debated Ms. van Stryp in a manner that may fairly be characterised as rude. She imputed stupidity to Ms. van Stryp. She accused Ms. van Stryp of posting

false information, and she implied that Ms. van Stryp should move out of the estate if she did not want to run the risk of a jackal killing her pets. All of that was unfortunate. But no reasonable person would have thought that Ms. Healy’s rudeness had succeeded in tarnishing Ms. van Stryp’s reputation. Quite the opposite. They would have thought less of Ms. Healy, because she was unable to keep to civil terms of debate.

74 For substantially the same reasons, we cannot accept that Ms. van Stryp was actionably insulted by posts 1 to 6. In the first place, there is precious little on the record, other than Ms. van Stryp's say-so, to show that Ms. van Stryp was subjectively hurt by Ms. Healy's rudeness. More fundamentally, though, we do not think that a reasonable person in Ms. van Stryp's position could have found Ms. Healy's rudeness so insulting as to puncture their dignity. Those who engage in online debate about

matters of mutual interest between neighbours ought reasonably to foresee that the criticism they sustain may be tart and, at times,

discourteous. They will take that into the bargain, and they will not strain to take offence.

75 Although Ms. Healy's remarks were rude, and may subjectively have upset Ms. van Stryp, the law expects those who take part in public discourse to do so with a degree of pliancy and robustness. A subjectively hurtful remark is not wrongful unless a reasonable person in the plaintiff's position would take exception to it. And the standard of a reasonable person "is not that of a timorous faintheart always in trepidation lest he or others suffer some injury". It is of a person "who ventures out into the world, engages in affairs and takes reasonable chances" – a person who, in our view, foresees the possibility that others with whom they may come into contact might be hurtful or rude, and who prepares themselves to brush off minor slights or inadvertent offence (*Herschel v Mrupe* 1954 (3) SA 464 (A) at 490E-F). In other words, the law expects Ms. van Stryp to shake off posts 1 to 6 as part of the cost of social interaction. It does not provide her with a remedy in delict.

76 Post 7 is different. Although the post appears to have been another of Ms. Healy's jokes, if she had portrayed Ms. van Stryp as a dog, and as a "Karen" – a privileged, entitled woman with a thin skin and a quick temper – Ms. Healy

would have opened Ms. van Stryp up to ridicule. To do so would probably have been defamatory. Depending on the context, it might

have been actionably insulting. Ms. Healy would have been called upon to justify that statement, although she may have been able to escape liability on the basis that she meant no harm.

77 The problem here, though, is that it was not established before the court below that post 7 actually referred to Ms. van Stryp. Ms. Healy denied in her plea that the reference was to Ms. van Stryp, and there is nothing on the face of the post that refers to Ms. van Stryp. Having seen and heard all the evidence, the Magistrate concluded that post 7 did not refer to Ms. van Stryp. We think he was right to reach that conclusion. But even if it was wrong, the conclusion was reasonably open to the Magistrate on the material placed before us and we are constrained to defer to the Magistrate's finding of fact on this issue.

78 In what follows, we give our reasons for reaching these conclusions.

Jest

79 Post 1 is a picture of a cat in a vest with spikes arranged along the cat's spine. Ms. Healy posted it with the words "Gisela van Stryp maybe this will help the cats". In her plea, Ms. Healy characterises the picture as a light-hearted aside, which was not intended to injure.

80 Meaden AJ rejects that defence, but in doing so he overlooks a vital distinction. Jest may be a defence to a defamation claim in one of two ways. The first is that the jest may, on its face, be such that the reasonable person would understand it as benign humour which does not open the object of the joke up to contempt or ridicule. If that is the probable interpretation, the jest is not defamatory, because it does not lower its target in the public's esteem. The second role jest plays in a defamation claim is that it can justify the publication of a genuinely defamatory joke if the joke was not really intended injure the person against whom it was directed (see *Le Roux v Dey* 2011 (3) SA 274 (CC) ("Le Roux"), paragraph 114).

81 Meaden AJ finds that Ms. Healy failed to discharge the onus on her to prove that post 1 "was undertaken in legitimate jest" (paragraph 40 above). But that onus only attaches to Ms. Healy if her case is that the joke, though objectively defamatory, was not intended to injure Ms. van Stryp. It seems to us that Ms. Healy's plea is not so tightly circumscribed. She described

post 1 as a joke, pure and simple. Accordingly, it was, in the first instance, for Ms. van Stryp to prove that the joke was of the defamatory kind: that it held her up to contempt or ridicule. Only once that had been established would Ms. Healy have to prove that she did not intend to injure Ms. van Stryp.

82 In our view, the joke embodied in post 1 was not of the defamatory kind. Post 1 is, on its face, a satire of the entire debate between the parties about the danger posed by jackals on the estate. Putting cats in such silly protective gear makes light of the whole issue. It accepts that cats might be in danger, but proposes an absurd solution. The reasonable observer would understand the joke to make light of the whole situation, not simply Ms. van Stryp's take on it. They would not understand it as an attack on Ms. van Stryp's reputation.

83 Post 1 is, accordingly, not defamatory. We are, however, constrained to point out that, even if it were, the absence of Ms. Healy's evidence from the record would mean either that the appeal would have to be dismissed on the basis that the Magistrate, having heard the evidence, found that Ms. Healy had no intent to injure, or that the matter would have to be remitted to the Magistrate for the reconstruction or generation of evidence on that issue. There is no basis on the material before us to hold Ms. Healy liable.

84 Is post 1 nevertheless actionably injurious? We do not see how. A reasonable person in Ms. van Stryp's position would have taken the joke for what it was: a way of making light of the issue as a whole, rather than of Ms. van Stryp's approach to

it. They would not have been insulted. They would have laughed it off. In our view, the level of sensitivity required to understand the joke as a personal attack on Ms. van Stryp goes substantially beyond what the “prevailing norms of society” regard as reasonable when faced with satire of this kind (see in this respect *De Lange v Costa* 1989 (2) SA 857 (A) (“*De Lange*”) at p 862A-H). Even if post 1 subjectively hurt Ms. van Stryp, the offence she took was unreasonable. Accordingly, post 1 could not have been wrongful.

The “B” problem

85 Before addressing posts 2 to 6, it is necessary for us to consider the “B” problem. In post 4, Ms. Healy opines that Ms. van Stryp “has a B problem with wild animals” and that this “is a concern”. Ms. van Stryp alleges that “B” in this sentence means “bitch”. The Magistrate held otherwise, and we agree. Purely at the textual level, reading “bitch” for “B” in the relevant sentence makes no sense. We cannot say what “a bitch problem with wild animals” might be. But we readily understand what “a big problem with wild animals” is. When the statement is read in the context of the debate as a whole, it is more natural to understand Ms. Healy to mean that Ms. van Stryp has a “big” problem with wild animals, since that was the position Ms. van Stryp took up.

86 It seems to us that there is no substantial evidence for the proposition that Ms. Healy meant to call Ms. van Stryp a bitch.

Posts 2 to 6

87 We had to dispense with the “B” problem because it was the only basis on which anything conveyed in posts 2 to 6 could reasonably be described as defamatory or insulting. Though in some respects rude, Ms. Healy’s allegation that Ms. van Stryp had published falsehoods, the rhetorical suggestion that Ms. van Stryp should move to New York, and the references to Ms. van Stryp and her views as “stupid”, have to be understood in the context of a robust online debate about the conditions under

which residents would live together on the housing estate the parties share. In that debate, Ms. van Stryp had herself described Ms. Healy as “shortsighted”, and had responded dismissively to some of Ms. Healy’s posts. We do not criticise Ms. van Stryp in this respect. The point is rather that both parties contributed to the robustness of the online debate.

88 The reasonable reader would have understood that context and would have made allowances for sharp language and discourtesy. They would not have inferred from Ms. Healy’s remarks that Ms. van Stryp really was stupid, given to the dissemination of false information or ill-suited to life in a South African city. If anything they would have thought Ms. Healy’s remarks to be disproportionate or rude rather than true. It follows that those remarks did not bear a defamatory meaning.

89 On the issue of whether posts 2 to 6 were nevertheless actionably injurious, we return to the remarks of the Appellate Division in *De Lange* at 862G-I, in which it was said that honest and fair criticism is not actionably injurious. There is no suggestion that Ms. Healy did not honestly believe posts 2 to 6 when she published them. And, as the Constitutional Court said in *The Citizen*

v McBride 2011 (4) SA 191 (CC), at paragraph 83, just because criticism is “extreme, unjust, unbalanced, exaggerated and prejudiced” does not make it unfair, so long as the criticism “expresses an honestly-held opinion without malice on a matter of public interest on facts that are true”. We have seen nothing that suggests that Ms. Healy exceeded these bounds when she published posts 2 to 6.

Post 7

90 Post 7 is a picture of a dog, a small terrier, which has been altered to make it seem as though the dog has been given a bob haircut. Ms. Healy posted it with the caption “what’s this dog’s name?”. She later posted the remark that “it

looks like a Karen”. There is no dispute before us that the word “Karen” was meant to refer, in context, to a

well-known internet meme: a privileged, entitled woman with a thin skin and a quick temper.

91 We accept that directing this meme at Ms. van Stryp, even in jest, would have been defamatory, and that Ms. van Stryp would reasonably have taken it as an affront to her dignity. Nevertheless, it was for Ms. van Stryp to establish, on the probabilities, that the meme was meant to refer to her. We do not think that she has done so. The meme itself does not refer explicitly to her, and she was by no means the only person on the forum to which it was posted to whom it could have been addressed. That the reference was meant to be to Ms. van Stryp could have been established by way of evidence, but the evidence establishes at least two equally likely objects of the meme: Ms. van Stryp, and a friend of hers, also a member of the forum, called Karen Roets Giannopoulos.

92 In any event, having heard all the evidence, the Magistrate found that the reference to Ms. van Stryp had not been established. Meaden AJ criticises the Magistrate’s failure to give reasons for that conclusion. We accept that the Magistrate’s reasons on this point are thin on the ground, but the real question is whether the conclusion the Magistrate drew was reasonably open to him on the evidence. Counsel for Ms. van Stryp did not advance his case on the basis that the Magistrate’s conclusion could not reasonably be reached on the material before him. It was argued merely that the “Karen” meme must have been directed at Ms. van Stryp because some of Ms. Healy’s other comments were so directed, and that Ms. van Stryp, like the dog depicted in the meme, had a bob haircut at the time.

93 Neither of these contentions renders the Magistrate’s conclusion untenable. Even if it was incorrect, the Magistrate’s

finding of fact on the issue was reasonably open to him on the evidence. That having been accepted, and not having heard the evidence ourselves, we are not at large to interfere with the Magistrate’s assessment.

94 For all these reasons, the appeal must fail. Given that the appeal was not opposed, there is no need to make a costs order.

95 The appeal is dismissed, with each party paying their own costs,

S D J WILSON

Judge of the High Court

W J DU PLESSIS

This judgment is handed down electronically by circulation to the parties or their legal representatives by email, by uploading it to the electronic file of this matter on Caselines, and by publication of the judgment to the South African Legal Information Institute. The date for hand-down is deemed to be 15 July 2025.

HEARD ON:

20 March 2025

JUDGMENT

RESERVED ON: 1 July 2025

DECIDED ON:

15 July 2025

For the Appellant:

B Winks

Instructed by Rupert Candy Inc

For the Respondent: No appearance

- [1] Le Roux and Others v Dey [2011] ZACC 4; 2011 (3) SA 274 (CC); 2011 (6) BCLR 577 (CC) at para 37 and 156.
- [2] Id. at para 37.
- [3] Id. at para 89, 91 & 156.
- [4] Annexure B, 01-23.
- [5] This format of action is well known – Le Roux v Dey (n 1).
- [6] JR Midgley “Delict” in LAWSA 3rd ed (2016) vol 15, at para 10.
- [7] Le Roux v Dey (CC) (n 1) at para 153ff.
- [8] Id. at para 84; Khumalo and Others v Holomisa (CCT53/01) [2002] ZACC 12; 2002 (5) SA 401; 2002 (8) BCLR 771 (14 June 2002) at para 18.
- [9] Le Roux v Dey (CC) (n 1) at para 85.

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- [10] Id.
- [11] Khumalo and Others v Holomisa (n 8) at para 18.
- [12] Id.
- [13] Id.
- [14] Le Roux v Dey (CC) (n 1) at para 111.
- [15] Le Roux v Dey 2010 (4) SA 210 (SCA) at para 10.
- [16] Le Roux v Dey (CC) (n 1) at para 114.
- [17] 1977 (4) SA 277 (T) at para 288.
- [18] Record v2 144.
- [19] Facebook users may “tag” a person in a person they publish, which adds their name to the post and directly notifies the “tagged” person that a publication has been made. It also highlights the tagged name for other members of the group to view the tagged person’s Facebook account.
- [20] Gisela Van Stryp v Jayne Healy 3019/2022 (Judgment of Magistrate Mashiane Mathopa) dated 19 February 2024 at para 167 to 178.
- [21] Id. at para 20.
- [22] Plea at para 12 (sub-paras 12.1 and 12.2 erroneously numbered 11.1 and 11.2), 01-51 to 01-52.
- [23] Id. at para 179 to 189.
- [24] Id. at para 191.
- [25] 2021 JDR 1542 (NWM) at para 23.
- [26] Gisela Van Stryp v Jayne Healy (n 20) at para 192.
- [27] Id. at para 193 to 195.
- [28] Le Roux v Dey (n 1) at para 37.

[29] Id. at para 156.

[30] Id. at para 37.

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Prepared on 8 October 2026 · Esheria