Topics

Why We Are Here

Statements From the Book Are False

Statement From the Blog is False

Remaining Elements of Defamation

Plaintiff's Complaint

FILED
11-27-2018

including, *e.g.*, https://phibetaiota.net/2018/08/jam
jones-how-we-know-sandy-hook-was-a-fema-drill
confirmed-it-was-an-anti-gun-propaganda-exercise
2018. There, Defendant Fetzer made the following
certificate] turned out to be a fabrication, with the
certificate and the top half of a fake, with no file n
time of death at 11 AM, when 'officially' the shoot
that morning." That statement is false, both in its
point, essence, or gist in the context in which it w
certificate is not a fabrication or forgery or fake. T
referred specifically to Plaintiff, as confirmed by t
while also false, identifies Plaintiff by name.

19. The Connecticut Department of Public
records for the State of Connecticut. The Connecti
Vital Records Division, issued an official death cer
correct copy of that death certificate (sensitive inf
hereto as Attachment A. The official death certific
differ in any material respect from the one released publicly by Plaintiff.

20. Distribution or possession of a document one knows to be a forgery of a written instrument officially issued or created by a public office, public servant or governmental instrumentality is a crime in Connecticut.

18. Mr. Fetzer's publication of this false accusation against Plaintiff was not limited to the book. He repeated that false statement on one or more blog posts, including, *e.g.*, https://phibetaiota.net/2018/08/james-fetzer-in-solidarity-with-alex-jones-how-we-know-sandy-hook-was-a-fema-drill-nobody-died-obama-officials-confirmed-it-was-an-anti-gun-propaganda-exercise. That post is dated August 5, 2018. There, Defendant Fetzer made the following false statement: "It [N.P.'s death certificate] turned out to be a fabrication, with the bottom half of a real death certificate and the top half of a fake, with no file number and the wrong estimated time of death at 11 AM, when 'officially' the shooting took place between 9:35-9:40 that morning." That statement is false, both in its particular fact and in the main

False Statement from Blog

for "Noah" as proof that he had died, which we included in the book. It turned out to be a fabrication, with the bottom half of a real death certificate and the top half of a fake, with no file number and the wrong

Doc. 122, Ex P.

Context of False Statement

Fetzer never claimed document was "uncertified"

Kelley Watt had over 100 hours of conversation with "Lenny Pozner", who purports to be his father and who sent Kelley a death certificate for "Noah" as proof that he had died, which we included in the book. It turned out to be a fabrication, with the bottom half of a real death certificate and the top half of a fake, with no file number and the wrong estimated time of death at 11 AM, when "officially" the shooting took place between 9:35-9:40 that morning. Mona Alexis Pressley has now

Doc. 122, Ex P.

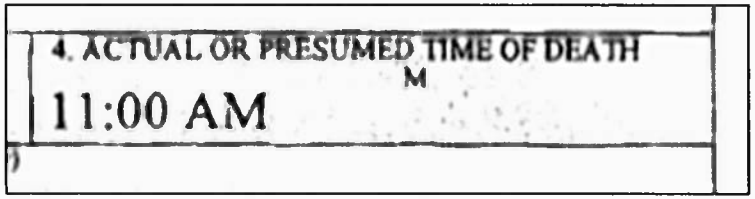
Time of Death Fields Are Not Wrong

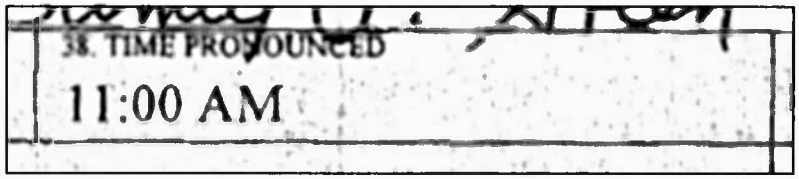
Defendant Fetzer's Speculation is Not Evidence

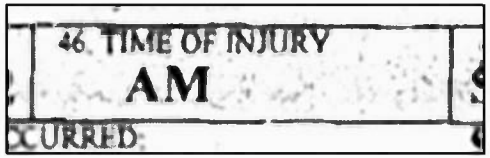
STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC HEALTH
CERTIFICATE OF DEATH
OFFICE OF THE CHIEF MEDICAL EXAMINER

Noah Samuel Pozner
December 14, 2012
11:00 AM
6
November 20, 2006
Danbury, Connecticut
Connecticut
Fairfield
Sandy Hook
37 Alpine Circle
06482
Lenny Pozner
Veronique Patricia Haller
Veronique Pozner
Mother
37 Alpine Circle, Sandy Hook, Connecticut 06482
Public School
12 Dickinson Drive
SANDY HOOK
06482
FAIRFIELD
B'nai Israel Cemetery
Monroe, Connecticut
12/17/2012
Abraham L. Orbach and Son Funeral Home
88 Beach Rd. Fairfield, Connecticut 06824
2130
12-17604
12/14/2012
11:00 AM
Multiple Gunshot Wounds
Homicide
December 14, 2012
AM
12 Dickinson Dr., Sandy Hook, CT
Shooting
Chief Medical Examiner
H. Wayne Carver, II M.D.
Dec 15, 2012
Office of the Chief Medical Examiner, 11 Shuttle Road, Farmington, CT 06032-2939
December 26, 2012
Debbie & Aurelia
Student
Elementary School

Doc. 103 at Ex. B (Death Certificate)


4. ACTUAL OR PRESUMED TIME OF DEATH
M
11:00 AM


38. TIME PRONOUNCED
11:00 AM


46. TIME OF INJURY
AM
CURRED

Time of Death Fields Are Not Wrong

Dr. Carver Corrected Fetzer's Misconception

8 Q. In box 4, Actual Or Presumed Time of Death, it
9 states 11 a.m. Is that correct?
10 A. That is the time we have records of competent
11 medical authority, in this case EMTs, making that
12 determination. It is -- I believe we used the same time
13 for every death in the school simply as a matter of when
14 somebody told us it had been completed.
15 Q. Even though -- have you read the official
16 report by Danbury State's Attorney Stephen Sedensky --
17 A. No, I have not.
18 Q. -- who put the time of the shooting from 9:30
19 to 9:40 a.m.?
20 A. Oh. The time in box 3 is an administrative
21 function. It is not in any way intended to be an
22 investigative function or a definitive statement of when
23 this actually occurred. This is not an uncommon
24 problem.

Doc. 171 at Ex. A (Carver Deposition) at 77:8-24

Time of Death Fields Are Not Wrong

Dr. Carver Corrected Fetzer's Misconception

17 Q. And in box 38, again, it says Time Pronounced
18 at 11 a.m.
19 A. Yes.
20 Q. But that's not correct, is it? I mean, didn't
21 you suggest that they were pronounced dead by EMTs
22 earlier in the morning?
23 A. That is what the EMTs provided us as their --
24 that's what I was provided as the time. And given that
25 my responsibilities for fine-tuning that biologically

1 are as I have just described, I had no reason to not use
2 it.

Doc. 171 at Ex. A (Carver Deposition) at 78:17-79:2

Case 2018CV003122 Document 220 Scanned 06-18-2019 Page 7 of 20

Mischaracterizes Evidence

Evidence Does Not Support Claim That No EMTs Entered Building

firefighters and then turned medical care over to Chelsea Fowler of N.V.A.C. I returned to the rescue truck and stood for further patients. I was never given anymore patients. Myself & none of my crew entered the school while we were staging." Halstead's written statement is attached to this report.

STATE OF CONNECTICUT, DEPARTMENT OF PUBLIC SAFETY
INVESTIGATION REPORT (DPS-302-E) (REVISED 2/3/06)

TFC WILLIAM A FLYNN

SGT JOSHUA PATTBERG

Doc. 100 at Ex. D

Time of Death Fields Are Not Wrong

Paramedics Pronounced Noah Dead

Cassavechia stated that he met with State Police Sergeant Bill Cario and informed him of his status as being the highest medical authority on scene. SGT Cario escorted Cassavechia, paramedic John Reed, a tactically trained paramedic, and paramedic Bernie Meehan into the building to begin patient assessment and treatment. Cassavechia stated that after entering the building he "saw horrific carnage" and identified most of the victims as "children with horrific injuries".

Cassavechia stated that four separate patient assessments were made to guarantee no one was resuscitatable. Cassavechia said that the victims were formerly triaged using the SMART triage program. See attached written statement.

STATE OF CONNECTICUT, DEPARTMENT OF PUBLIC SAFETY-
INVESTIGATION REPORT (DPS-302-E) (REVISED 2/3/06)

STATE OF CONNECTICUT, DEPARTMENT OF PUBLIC SAFETY-
INVESTIGATION REPORT (DPS-302-E) (REVISED 2/3/06)

Cassavechia stated that patients were found in two classrooms and in the hallway of the school. Cassavechia stated that one adult was in a classroom with "an obvious fatal injury" and a handgun beside the body.

Cassavechia stated that four separate patient assessments were made to guarantee no one was resuscitatable. Cassavechia said that the victims were formerly triaged using the SMART triage program. See attached written statement.

This case remains open.

TFC JOSEPH S BUKOWSKI

Doc. 171 at Ex. A (Carver Deposition) at 78:17-79:2

Time of Death Fields Are Not Wrong

Death Certificate Consistent with ME Report and Police Report

REPORT OF INVESTIGATION

ME-102 (revised 10/08)

M.E. CASE NO. 12-17604

State of Connecticut
OFFICE OF THE CHIEF MEDICAL EXAMINER
11 Shuttle Road, Farmington, Connecticut 06032
(860) 679-3980

DECEASED	Name (First, Middle or Maiden, Last): Noah Pozner	Age: 6	Race: White	Sex: ☒ male ☐ female
	Last Residence (No., Street): 37 Alpine Cir	Town: Sandy Hook	State: CT	Zip Code: 06482
INJURY (if any)	Place of Injury: N/A			Date of Injury:
DEATH	Place of Death (No., Street): 12 Dickinson Drive	Town: Sandy Hook	State: CT	
	Reported By (Name): Sgt. James Thomas	Affiliation: CT State Police Central District Major Crime		
	OCME Investigator Notified: Date / Time	OCME Notified: Date / Time		
	Arrival at Scene: Date 12/14/12 Time 1605	Departure from Scene: Date 12/14/12 Time 2330	Death Determined By: Paramedic	Date 12/14/12 Time 1100
	Deceased Identified By (Name): CT State Police	Address (Street, Town, State):		
INFORMANT	Other Informants (Names):			

CIRCUMSTANCES OF DEATH (Include when deceased last seen alive and pertinent medical and occupational history)

On 12/14/12 at 1115 hours Sgt. James Thomas of Connecticut Central District Major Crimes informed me that there were at least twenty fatalities at the Sandy Hook Elementary School as a result of a shooting. The extent of the shooting was not known until Dr. Carver assessed the scene and it was reported that there were two child victims at Danbury Hospital and twenty-five at the scene. Once at the scene we generated case numbers for each vi[illegible] were made the victims information was appropriately added. All victims were pronounced at the scene on 12/14/12 at 1100 hours by EMS. The following facts and circumstances were provided by police personnel and from personal observation.

Doc. 120, Ex. I (M.E. Report) at 1

Absence of State File Number

No State File Number for Copy Issued By Town

24 Q. In the upper right-hand corner, for file
25 number, what do you see?

1 A. Oh. It's blank.
2 Q. And would a copy like this be public without a
3 file number?
4 A. If it was obtained from the Registrar of Vital
5 Statistics in Newtown, it would not have a file number.
6 That is a state file number. And is only on the copy
7 retained by the State Registrar of Vital Statistics, who
8 maintains copies from all 169 different town registrars.
9 So this Exhibit J has been signed by the town
10 registrar. So it has made that exhibit. But unlike
11 Plaintiff's 6, which was obtained from the State
12 Registrar of Vital Statistics and is so labeled, it does
13 not -- Exhibit J does not have the file number there,
14 nor would it normally be expected to.

Doc. 171 at Ex. A (Carver Deposition) at 75:23-76:14

No Evidence of Combination

Death Certificate Was Clearly Not Made By Combining Two Documents

- Plaintiff introduced evidence that document is not the combination of a fake top half and real bottom half
  - Carver entered text into top half and bottom halves. Doc. 170 ¶ 14.
  - Green entered text into top and bottom halves. Doc 104 ¶ 13.
  - Anyone comparing the three documents can see the typewritten text is unchanged.
- Defendant offered no evidence to establish that the document was the combination of a fake and a real certificate.

M.E. File Copy

Funeral Home File Copy

Fetzer's Book Copy

Where Does That Leave Us?

- Plaintiff identified defamatory statement in Complaint
- Context of statement says death certificate fabricated by combining bottom half of a real certificate with top half of a fake certificate
- Plaintiff introduced evidence that shows no fabrication
- Defendants failed to provide admissible evidence to rebut Plaintiff's evidence
- No genuine issue of material fact on this element

Topics

- [illegible]
- [illegible]
- [illegible]
- Remaining Elements of Defamation

No Disputes

No Dispute That Publication Was About Plaintiff And Had Defamatory Meaning

- To establish that the defamatory material was published to third parties, Plaintiff cited admissible evidence in its PPUF 94, 95, and 110. Doc. #106.
  - Defendant Fetzer offered no evidence to rebut Plaintiff's showing. Doc. # 195.
- Admissible evidence supported Plaintiff's claim that the defamatory statements referred to Plaintiff. PPUF 105, 106, and PPUF 109.
  - Defendant Fetzer failed to cite admissible evidence to dispute Plaintiff's evidence. Doc. # 195.
- Plaintiff introduced evidence that language had defamatory meaning as a matter of law.
  - Defendant did not respond or offer evidence in response.

Constitutional Conditional Privilege

No Evidence Plaintiff Injected Himself Into Public Controversy

- Plaintiff introduced evidence that Plaintiff did not inject himself into a public controversy before he was defamed.
- Defendant cited, but did not attach a link, to an unauthenticated news article.
- No evidence article refers to Plaintiff.
  - His name does not appear.

ement to the contrary in his affidavit is

Constitutional Conditional Privilege

No Evidence Plaintiff Injected Himself Into Public Controversy

- Article links to "memorandum."

Constitutional Conditional Privilege

No Evidence Plaintiff Injected Himself Into Public Controversy

- Memorandum is neither authenticated nor in evidence.
- In any event, it does not mention Leonard Pozner among the list of names on whose behalf the memo purports to be submitted:

TO: The White House
FROM: The Maternal Fa
RE: Initial Proposals
DATE: January 13, 2013

I. Introduction
II. Criminal Law Reforms
A. Sandy Hook Repo
1. Proposed
2. Rationale
B. Sandy Hook Firea
1. Proposed
2. Rationale
III. School Safety Reforms
A. Federal Grants for
B. Federal Grants for
C. Mandatory Lockdo
IV. Emergency Grief Counseli
V. Conclusion

This memorandum is authored by Alexis Haller, Noah's uncle and a licensed attorney. The memorandum is submitted on behalf of the following family members of Noah Pozner:

Veronique Pozner (Noah's Mother)
Danielle Vabner (Noah's Sister)
Michael Vabner (Noah's Brother)
Marie-Claude Duytschaever (Noah's Grandmother)
Dirk Duytschaever (Noah's Step-Grandfather)
Ivar Haller (Noah's Grandfather)
Natalie Cornaz (Partner of Noah's Grandfather)
Stephan Haller (Noah's Uncle)
Patricia Haller (Noah's Aunt)
Alexis Haller (Noah's Uncle)
Victoria Haller (Noah's Aunt)

Initial Proposals by the Maternal Family of Noah Pozner

1

Where Does That Leave Us?

- Plaintiff introduced evidence that shows he did not inject himself into a public controversy before he was defamed by Defendant Fetzer
- Defendant did not offer any admissible evidence in response
- Cited article and underlying memo do not mention plaintiff
- Defendants failed to establish conditional constitutional privilege
- No genuine issue of material fact on this element

Summary Judgment

- Plaintiff introduced evidence on all elements of defamation for each of the four defamatory statements
- Defendant did not offer any admissible evidence in response that creates a genuine issue of material fact
- Court should grant summary judgment to Plaintiff on all defamation claims