[NL] TV-Journalism Has its Limits

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In a judgment of 28 January 2000, the President of the District Court of Amsterdam ruled that in some circumstances the right to not be damaged in one's honour or reputation by being exposed harshly to insinuations with possible harmful results, can be more important than the right of freedom of speech.

The case was as follows: a certain Mr. Van Dijk had a car crash. In his eyes his insurance agent had made not enough effort to look after his interests in relation to the settlement of the costs caused by this crash. As a response to Van Dijk's lack of trust, the insurance agent ended their business relationship. Van Dijk sought the help of a television program called Breekijzer ("crowbar"). In this program complaints from consumers are given exposure by interviewing the relevant persons or companies in front of the camera without any prior warning. The TV-journalist from this program together with a camera crew visited the premises of the insurance agent. An employee who was present was only willing to talk without being filmed and asked the camera crew to leave the building. It is only when the police arrived, that the TV-journalist and his crew finally leave.

After this incident, the insurance agent wanted to prevent the broadcasting of the film made of his building and the employee. The insurance agency started summary proceedings against the TV-journalist and his team. The insurance agency argued that if the film were broadcast, the reputation of his company and the employees would be affected. The TV-crew defends itself on grounds of freedom of speech. They say that they exposed an abuse in a proper way.

The President decided that the conduct of the insurance agent towards Van Dijk was correct.

The film made by the TV-crew created the impression that the insurance agent had made not enough effort, and that impression was not justified. The employee who was filmed had a personal interest in seeking to prevent the broadcast. He had the right to forbid the exposure of his portrait in public without his permission, according to article 21 of the Dutch Copyright Act. The President decided that the broadcast would be harmful to the plaintiffs' reputation. An explicit ban on broadcasting the film was imposed on the TV-crew, and they were ordered to pay damages to the plaintiffs.

Pres. Rb. Amsterdam, 28 January 2000, Van Tuijl c.s. vs. Storms c.s.

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