[DE] Porn star must accept his name being mentioned in newspaper reports

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In a judgment of 25 October 2011 (Case VI ZR 332/09), the Bundesgerichtshof (Federal Court of Justice - BGH) ruled that an actor who takes part in pornographic films in a way that enables him to be identified must accept his name being mentioned in a tabloid newspaper.

The plaintiff was a sculptor but starred a total of eight times in pornographic films, in which all of his body was shown, including his face. His face was also printed on the cover of the corresponding film material, although his real name was not mentioned. He clearly does not use condoms in the sex scenes.

At an event to present the German Film Awards, the plaintiff appeared in public for the first time together with his new life partner, who is also a well-known actress. The defendant newspaper publisher took the opportunity of the coverage on the film awards to write about the new partnership between the actress and the plaintiff. His name was mentioned in the article concerned and it was pointed out that he was a porn star who did not use condoms in the filming of sex scenes. The plaintiff considered that his general right to privacy had been violated and brought an action seeking a cease-and-desist order and damages.

The action succeeded in the lower courts but the BGH dismissed it, stating that in the necessary process of balancing the plaintiff's general right to privacy against the defendant's right to freedom of expression and the public interest in obtaining information the latter took precedence. Anyone who willingly made the protection of their own sexuality and the core area of their private life accessible to the public and in so doing affected the interests of the community, could not at the same time claim the protection of his or her intimate or private sphere from public gaze. By taking part in professionally and commercially made pornographic films in which he could be identified, the plaintiff had relinquished the protection of his privacy.

Das Urteil des Bundesgerichtshofs vom 25 Oktober 2011 (Az.: VI ZR 332/09)

http://juris.bundesgerichtshof.de/cgi-bin/rechtsprechung/document.py?Gericht=bgh&Art=en&nr=58383&pos=0&anz=1

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