

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

In Case No. 2006-0080, Malcolm Bradsher d/b/a Bradsher Excavating v. Sherwood Forest Manufactured Homes, Inc.; Malcolm Bradsher d/b/a M. Bradshire Co., Inc. v. Daniel Britton, the court on May 1, 2007, issued the following order:

The defendant, Daniel Britton, appeals a verdict on a defamation claim following a jury trial. He argues that the trial court erred in: (1) refusing to set aside the verdict; (2) refusing to enter judgment notwithstanding the verdict (JNOV); (3) allowing the plaintiff to introduce hearsay testimony; and (4) refusing to grant remittitur. We affirm.

A jury's verdict may only be set aside if the verdict is one that no reasonable jury could return or if it is the result of mistake, partiality or corruption. Mortgage Specialists v. Davey, 153 N.H. 764, 771 (2006). We will not overturn a trial court's denial of a motion to set aside a verdict unless it is an unsustainable exercise of discretion. Id.

In support of his first claim of error, the defendant argues that he never made the alleged defamatory statement or that if he did make or imply it, the statement was true. Having reviewed the record before us, we find no merit in the defendant's arguments or attempted distinctions and conclude that the trial court did not err in denying his motion to set aside the verdict.

A party is entitled to JNOV only when the sole reasonable inference that may be drawn from the evidence, which must be viewed in the light most favorable to the nonmoving party, is so overwhelmingly in favor of the moving party that no contrary verdict could stand. Boynton v. Figueroa, 154 N.H. ___, ___, 913 A.2d 697, 706 (2006). In deciding whether to grant the motion, the trial court cannot weigh the evidence or inquire into the credibility of witnesses. Id. If the evidence is conflicting, or if several reasonable inferences may be drawn, the court must deny the motion. Id. Our standard of review of a trial court's denial of a motion for JNOV is extremely narrow; we will not overturn the trial court's decision absent an unsustainable exercise of discretion. Id. For the same reasons that we find no error in the trial court's denial of the defendant's motion to set aside the verdict, we affirm its denial of the defendant's request for entry of judgment notwithstanding the verdict.

The defendant also argues that the trial court erred in admitting certain statements. We will assume without deciding that the statements were hearsay and that their admission was error. Given the record before us, including the alternative evidence presented on the same issue, we conclude that any error in

admitting the evidence was harmless. See McIntire v. Lee, 149 N.H. 160, 167 (2003) (error harmless where it appears it did not affect outcome or where court can see from entire record that no injury has been done).

Finally, given the record before us, we find no error in the trial court's denial of the defendant's request for remittitur. See Boynton v. Figueroa, 154 N.H. at ____, 913 A.2d at 709 (setting forth standard of appellate review of trial court rulings on requests for remittitur). The record contains sufficient evidence to support the jury's verdict.

Affirmed.

DALIANIS, DUGGAN and GALWAY, JJ., concurred.

**Eileen Fox,
Clerk**