

Canada: Young cyber bullying victims may anonymously seek legal redress

By Asta Puraite



The Supreme Court of Canada unanimously ruled – on 27 September 2012 – that a teenage girl who was the victim of cyberbullying can proceed anonymously in her efforts to find out the identity of her cyber bully. The case *A.B. v. Bragg Communications Inc.*, involved a 15-year-old girl who became the victim of sexualised cyber bullying when someone set up a fake Facebook profile using her picture, a slightly modified version of her name, and other particulars identifying her. The fake profile also contained negative commentary about the girl's appearance along with sexually explicit references.

The girl's parents brought an application for an order requiring the internet provider to disclose the identity of her cyber bully and asked for permission to anonymously seek recourse before the court. The Supreme Court of Nova Scotia granted the request that the internet provider disclose the information about the publisher of the fake profile, but denied the request for anonymity as there was insufficient evidence of specific harm to the girl – a decision which was upheld by the Court of Appeal.

The Supreme Court of Canada subsequently ruled that granting the applicant anonymity would cause minimal harm to the freedom of press and to the open courts principle. The Court also held that it is not necessary for a victim to provide specific evidence of harm suffered because it is 'logical to infer that children can suffer harm through cyberbullying'. The Court stated that privacy and the protection of children from cyberbullying are sufficiently compelling interests that justify restricting the open court principle.

The Privacy Commissioner of Canada, Jennifer Stoddart, welcomed the Supreme Court's decision. "Canadian children and youth who have been the victims of cyberbullying will now have the opportunity to seek recourse in court without sacrificing their privacy", said Stoddart. "Victims willing to go to court face the extremely daunting prospect that, because information can now live on forever on the internet, it can follow them around for the rest of their lives. This decision shows that the courts understand the realities of today's technology and society, and that they will not allow those who seek justice to be re-victimized."

The Supreme Court stated that girl's anonymous legal pursuit should be permitted because 'young victims of sexualized bullying are particularly vulnerable to the harms of revictimization, and the right to protection will disappear for most children without the further protection of anonymity'.

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