

**NICHOLAS CRISMALE v. CHRISTOPHER ANDREW WALSTON et al., AC  
40026**

*Judicial District of New Haven*

**Defamation; Whether Trial Court Properly Determined that Defendant's Statements Privileged and that Privileges not Defeated on Ground that Statements made with Malice; Whether Trial Court Properly Granted Summary Judgment for Defendant on Malicious Prosecution Claim.** The plaintiff is a commercial fisherman. Defendant Christopher Andrew Walston is a Guilford resident who leases a shellfish lot on Long Island Sound. On December 14, 2011, the defendant contacted the police to complain that he was watching two commercial shellfishing boats owned by the plaintiff actively engaged in harvesting clams from the defendant's lot. The plaintiff was arrested and charged with larceny in the fourth degree and operating without a shellfish license as a result, and he was found not guilty of the charges following a criminal trial. The plaintiff brought this action seeking damages from the defendant for defamation and malicious prosecution. The plaintiff alleged in support of his defamation claim that the defendant had slandered him when he reported to the police that the plaintiff was stealing his clams and when, following the plaintiff's arrest, the defendant told a Hartford Courant reporter "I nailed him and I nailed him good." The defendant moved that summary judgment enter in his favor, claiming that there was no genuine issue of material fact and that he was entitled to judgment as a matter of law on the defamation and malicious prosecution claims. The trial court agreed and granted the defendant's motion for summary judgment, finding, as to the defamation claim, that the defendant's statements to the police and to the Hartford Courant enjoyed qualified privileges and that the privileges were not defeated because there was no showing that the defendant acted with malice in making the statements. The court found that the defendant's statements to the police were privileged as statements made in connection with a criminal investigation and that his statements to the Hartford Courant was privileged as "fair comment," a common law privilege that protects statements concerning matters of public interest. In finding that the defendant was entitled to summary judgment on the malicious prosecution claim, the court noted that, while the defendant had provided potentially incriminating information about the plaintiff to the police, there was no genuine issue of material fact that the defendant did not initiate or procure the criminal proceeding brought against the plaintiff. The plaintiff appeals, claiming that the question of whether the defendant's statements to the police and to the Hartford Courant were made with malice—such that the privileges cited by the trial court were defeated—is one of fact that should have been left to a jury to decide. The plaintiff also argues that the trial court wrongly rendered summary judgment for the defendant on his malicious prosecution claim. The plaintiff cites precedent establishing that a person who reports a crime can be liable for malicious prosecution if he knowingly gives false information to the police, and he claims that there remained an issue of fact here as to whether the defendant knowingly gave false or misleading information to the police and that the resolution of that issue should have been left to a jury.