

"YOU REALLY DID ASK FOR IT" —

# Judge rejects Musk's arguments to dismiss "pedo guy" defamation suit

A British caver sued Elon Musk after Musk called him a "pedo guy."

TIMOTHY B. LEE - 5/11/2019, 7:30 AM



VCG/VCG via Getty Images

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A federal judge in California has **rejected** Elon Musk's request to dismiss a defamation lawsuit filed by Vern Unsworth, a British caver who aided with the rescue of a dozen boys in Thailand last year.

Musk's lawyers had argued that his remarks describing Unsworth as a "pedo guy" were mere statements of opinion that cannot be defamatory under US law. Judge Stephen Wilson rejected these arguments and scheduled a jury trial to start on October 22.

## "Sorry pedo guy, you really did ask for it"

Musk's feud with Unsworth began last summer, when Musk had a team of SpaceX engineers [build a miniature submarine](#) to help extract the Thai boys. The device turned out to be unnecessary, as divers had already rescued the boys before it arrived.

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Asked about Musk's invention [on CNN a few days after the rescue](#), Unsworth described the submarine as a "PR stunt" with "absolutely no chance of working." He added that Musk could "stick his submarine where it hurts."

Musk seems to have taken this personally. In a tweet, he vowed to prove Unsworth wrong by navigating his submarine through narrow passages all the way to the cavern where the boys had been trapped.



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"Sorry pedo guy, you really did ask for it," Musk added.

Musk continued to publicly needle Unsworth. When another Twitter user chided Musk for calling Unsworth a "pedo," Musk responded "bet ya a signed dollar it's true."

Musk issued a [half-hearted apology](#) to Unsworth in July. But then in August he [tweeted](#) "You don't think it's strange he hasn't sued me?"—seeming to imply that Unsworth's decision not to sue (up to that point) suggested Musk's accusation was true.

The same day, Musk **sent an email** to BuzzFeed reporter Ryan Mac stating, among other things, that Unsworth "has been traveling to or living in Thailand for 30 to 40 years" and that he moved "to Chiang Rai for a child bride who was about 12 years old at the time." He described Unsworth as a "child rapist" and suggested that Mac "call people you know in Thailand" to "find out what's actually going on." (Unsworth says that none of Musk's accusations are true.)

"I fucking hope he sues me," Musk added. The email was labeled "off the record," but Mac had not agreed to such a condition and decided to publish it.

## Musk says his claims were just hyperbole

Musk got his wish: **Unsworth sued him** for defamation in US federal court in September. Musk's lawyers **responded in December**, arguing that his statements couldn't be reasonably read as making factual claims. They argued that Musk was merely blowing off steam and that this should have been obvious to anyone reading Musk's exchange with Unsworth.

Several factors supported their view that Musk's statements were matters of opinion, Musk's lawyers said. They were made on Twitter, a forum known for figurative or hyperbolic language. The comments were made in the middle of a public feud between the men, the lawyers argued, and comments made in anger in the heat of the moment are less likely to be considered factual.

In other words, Musk wasn't literally accusing Unsworth of being a pedophile, the lawyers wrote. Instead, he was using "pedo guy" as a generic insult, like "asshole" or "douchebag."

Judge Wilson found these arguments unconvincing, as he explained in Friday's ruling. The initial "pedo guy" tweet might be read as a hyperbolic insult, Wilson wrote, but Musk's subsequent comments belie that interpretation. Musk's tweets that he'd "bet ya a signed dollar it's true" reads like Musk is taking the accusation literally, as does his tweet wondering why Unsworth hasn't sued him.

Perhaps most problematic, in Wilson's view, was Musk's email to BuzzFeed. This email didn't just use vague language like "pedo guy." It offered a number of concrete and falsifiable factual assertions: that Unsworth had traveled to Thailand for 30 to 40 years, that he had frequented locations known for child sex trafficking, and that he had married a 12-year-old girl.

"He wrote in clear, plain, and non-figurative language," Wilson wrote. "He purported to convey actual facts and even suggested that the BuzzFeed reporter call people in Thailand to confirm his language."

"A reasonable factfinder could easily conclude" that Musk's statements "implied assertions of objective fact," the judge concluded. With that conclusion, he rejected Musk's request to dismiss the case.

## Tell it to the jury

This initial ruling doesn't necessarily mean Musk will lose the case. For one thing, Musk could produce evidence that his claims against Unsworth were true—though so far he hasn't produced any such evidence.

And while the judge ruled that Musk's statements could be read as factual claims, that judgment will ultimately be up to the jury in the trial, which might see things differently than Judge Wilson did.

Still, Wilson's ruling is not good news for Musk and his legal team, as it signals that he is skeptical about Musk's position in the case. Musk's lawyers could face an uphill battle when the defamation trial begins in October.

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**gtg465x** wrote:

I've seen no proof that this guy is a pedophile, so at this point I'm just assuming he was unlucky enough to insult the wrong billionaire, or maybe I should say lucky enough if he ends up getting a big settlement. But I do wonder how a British guy ends up living in a remote region of Thailand not known for tourism, but for child sex trafficking. There are plenty of legitimate ways, I'm sure, but it does leave a slight amount on skepticism in the back of my mind, such that if proof ever came out that he was a pedophile, I wouldn't be shocked. [https://www.chiangraitimes.com/northern ... cking.html](https://www.chiangraitimes.com/northern...cking.html)

This is exactly why Musk should be held accountable. Near as I can tell, no one started "wondering" things about Unsworth before Musk started spouting off about "pedo guy". This is exactly how reputations get erroneously ruined.

15356 posts | registered 11/13/2002

**Raptor** / Ars Legatus Legionis

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**Quote:**

Musk says his claims were just hyperbole

Correct statement, wrong topic, Elon.

16877 posts | registered 6/2/1999

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