

VIRGINIA
IN THE CIRCUIT COURT FOR THE COUNTY OF HANOVER

M. H. McKENNEY,

Plaintiff,

v.

Case No.: CL15001442-00

NATHAN COX

Defendant.

RECEIVED and/or FILED

Serve: Nathan Cox

JUN 16 2015

CLERK'S OFFICE
HANOVER CIRCUIT COURT

COMPLAINT

COMES NOW the Plaintiff M. H. McKenney, by counsel, and for her Complaint against the Defendant, avers the following:

1. Plaintiff is a Virginia state law enforcement officer with a good reputation both generally and professionally who lawfully "pulled over" the Defendant on Saturday, May 26, 2012.
2. The Defendant is a resident of Hanover County and the owner and administrator of a website called virginiacopblock.org ("the website").
3. At the outset of the Plaintiff's lawful traffic stop, the Plaintiff requested the Defendant to step outside of his vehicle because he had driven almost a mile before he pulled over to the shoulder of the road and appeared to be making furtive movements near and towards the center console of his vehicle before the vehicle came to a stop. When the Plaintiff walked up to the Defendant's vehicle, the Defendant had his back slightly towards the Plaintiff and had an object in his hand. For her safety, Plaintiff requested Defendant step out of the vehicle. Then Defendant

next began videotaping the Plaintiff on his cellphone and reluctantly stepped out of his vehicle with the object in his hand. Next, Defendant continued videotaping Plaintiff and the Defendant began acting erratically. Plaintiff followed Defendant around his car, instructing Defendant to set his cell phone down and stand in one place but the Defendant was very uncooperative. In particular, Plaintiff was concerned for her safety as the Defendant was holding an object (above her head at times) which could be used as a weapon.¹ The traffic stop ended without incident and the Defendant signed the summons agreeing to appear at court but the Defendant's conduct during the stop was strange and Plaintiff was never sure what the Defendant intended to do. The traffic stop is memorialized on the dashboard camera in the car Plaintiff was driving.

4. Subsequent to the traffic stop, on or after May 27, 2012, the Defendant published videos and comments on the Internet and social media which specifically named the Plaintiff, where were widely accessible by the general public (either directly or through a simple Google search), and were seen by Plaintiff's family, friends, co-workers, as well as numerous acquaintances, and others both inside and outside the law enforcement community, accusing Plaintiff of professional misconduct and criminal wrongdoing during the stop, generally criticizing Plaintiff and falsely implied that Plaintiff lacks the character and fitness to be a professional law enforcement officer.
5. Subsequent to the traffic stop, the Defendant filed a complaint against Plaintiff with her employer that contained false allegations. Remarkably, Defendant published an

¹ Defendant falsely states that Plaintiff absolutely knew his cell phone was not a weapon and admitted the same to her colleagues but she never made such a statement.

article on the website indicating that the purposes of filing such complaints include efforts to “tie-up” police resources and, by making the interaction public, one can “point-out” complaints to demonstrate “record of not being too professional”. There was no justification for the complaint Defendant filed against Plaintiff, demonstrating Defendant’s malicious intent to harm Plaintiff. In fact, although the traffic stop took place on May 26, 2012, Defendant did not make an official complaint until August 13, 2012, which remarkably was after Defendant’s unsuccessful attempt to get one of the charges dismissed as complied with law in Hanover General District Court on July 19, 2012 based on Plaintiff’s testimony and evidence.

6. On or after May 27, 2012, Defendant published a revised video² on YouTube specifically adding Plaintiff’s name titled, “Virginia State Trooper McKenney is CRAZY—Memorial Day Weekend Traffic Stop” which contains the following false statements:
 - a. Plaintiff “had her hands all over me trying to prevent me from recording her”.
 - b. Made a statement conveying the false implication that Plaintiff “threatened” Defendant “with a citation for being a pedestrian on the highway”.
 - c. Plaintiff “told me to get in my car or else she’d ticket me for being a pedestrian on a HIGHWAY!”
7. On May 27, 2012, Defendant published a video on YouTube titled, “Explaining Yesterday’s Traffic Stop” (<https://www.youtube.com/watch?v=LObbHm6YWKw>)

² The defendant originally posted the video without Plaintiff’s name although it was of and concerning Plaintiff but the defendant later revised the video to add Plaintiff’s name. The video was published as Part 1 (<https://www.youtube.com/watch?v=m9NiPRCP1ls>) and Part 2 (<https://www.youtube.com/watch?v=N-r3DXsE4kk>).

containing the following false statements or conveying the following false implications:

- a. Plaintiff "literally attacks" Defendant during the traffic stop and "she doesn't leave any bruises or anything like that as far as I know but she places her hands on me quite a bit trying to steal my property, my cell phone".
 - b. Plaintiff "molests" Defendant "trying to grab" his cell phone.
 - c. Plaintiff "would issue" Defendant "a citation for being a pedestrian on the highway".
8. On August 31, 2012, the Defendant published an article on the website which contained numerous false statements including:
- a. After exiting the car, Plaintiff "had her hands all over" Defendant trying to prevent him from videotaping his encounter with Plaintiff on his cell phone.
 - b. Plaintiff "threatened to cite" Defendant "for being a pedestrian on the highway".
 - c. Plaintiff "violates" Defendant's "4th Amendment Rights by trespassing against my property (My Phone)".
 - d. Plaintiff "knew very well it wasn't a weapon and simply did not want to be recorded".
 - e. Stating that the Plaintiff tried "to extort more money" from Defendant.
 - f. The defendant "tagged" the article with Plaintiff's name under the following categories, "corrupt police", "police abuse", "police abuse power", and "police caught lying", conveying the false implication that Plaintiff engaged in police abuse and got "caught lying".

9. On August 31, 2012, Defendant also published a video on YouTube titled, "State Trooper McKenney Dashboard Camera (Memorial Day Weekend Traffic Stop)" (<https://www.youtube.com/watch?v=LkM8Afk5AGk>) where among other things he falsely states, "During this stop, Trooper McKenney exchanged several text messages with other officers in her department." Defendant knew this statement was false because his August 31, 2012 article states, "All text messages appear to be sent/received after completion of the traffic stop". This false statement generated significant comments from viewers who believed that Plaintiff had acted unprofessionally and without regard for the time of others by detaining members of the public longer than necessary by exchanging text messages during the traffic stop.
10. On March 26, 2014, Defendant published an article on the website which contained numerous false statements including:
 - a. Plaintiff "violated my rights".
 - b. Plaintiff "knew it wasn't a gun".
11. On March 26, 2014, Defendant gave an interview with Anthony Antonello on Silence is Compliance and made the following false statements or conveying the following false implications:
 - a. Plaintiff "ended up admitting to her colleague that she knew it wasn't a gun that she just didn't want to be on youtube".
 - b. Plaintiff said, "If you don't get in your car, I'm going to write you a ticket for being a pedestrian on the side of a highway."
12. On March 30, 2014, Defendant gave an interview with Robert Wasmund with Journalist Revolution on Liberty Movement Radio which was published April 2, 2014

on YouTube titled, Nathan Cox of Virginia Cop Block on Jrev (<https://www.youtube.com/watch?v=GyVJ1JGfzr8>) and made the following false statements or conveying the following false implications:

- a. Plaintiff "ended up coming after me and putting her hands on me um and some people classify that as assault uh trying to get uh trying to prevent me from filming".
- b. Plaintiff "ended up admitting to her colleagues during that traffic stop that she knew it wasn't a cell pho excuse me she knew it wasn't a gun she just didn't want to be on quote unquote youtube".
- c. Plaintiff "grabbed my cell my cell phone that was leaning on my car and turned it upside down facing down so it would not record her vehicle any longer."

13. On March 30, 2014, Defendant gave an interview with Derrick Broze with Conscious Resistance which was published on YouTube titled, TCR Live #18: The Corbett Report, Nathan Cox of Virginia Cop Block on April 4, 2014 (<https://www.youtube.com/watch?v=zQ6GubE8K24>) and again titled, Interview w/Nathan Cox of Virginia Cop Block on April 10, 2014 (<https://www.youtube.com/watch?v=52E1PAQ0Xf0>) and made the following false statements or conveying the following false implications:

- a. Plaintiff "actually started swatting toward my phone um and making contact with me because she didn't want me recording her".
- b. Plaintiff "admitted that she knew it wasn't a cell phone, excuse me, she knew it wasn't a ah firearm that I was holding although she continued to try to claim

that it was, but she she said to her colleagues she just did not want to be on youtube”.

c. Plaintiff was communicating via text messages with her colleagues and said “something like I know where that guy lives I’m gonna keep an eye something like I’m gonna keep an eye on him and if he doesn’t correct these problems I’m gonna ah I’m gonna ticket him every 24 hours, or sosomething like”.

d. Plaintiff “went so far to grab my cell phone from the from the spoiler and turn it face down so it would stop recording her”.

14. On April 17, 2014, Defendant gave an interview with Tyler Matthews and Ryan Cacaphony on Cut the Cord Show 44 and made the following false statements or conveying the following false implications:

a. Plaintiff “technically assaulted me several times after I got out of the car cause she didn’t want me to record her”.

b. Plaintiff “ended up admitting to her colleague” that Plaintiff “knew it wasn’t a a gun that she just didn’t want to be on youtube”.

15. On May 8, 2014, Defendant gave an interview with Adam Kokesh on Adam vs. the Man and made the following false statements or conveying the following false implications:

a. Plaintiff “didn’t like me video recording her, so she literally tried to chase me around the vehicle um tried, and like swatting at me, making contact with me and my phone”.

- b. Plaintiff “admitted to her colleagues that she knew it wasn’t a gun, that she just didn’t want to be on youtube”.
 - c. Plaintiff “knew it wasn’t a gun, she just wanted to violate my rights”.
 - d. Plaintiff “threaten” Defendant with “a ticket for being a pedestrian on the highway if I didn’t get in my car and leave”.
16. On March 28, 2015, Defendant published a video on YouTube titled, “Nathan Cox Q & A with University of Richmond Law Students” (<https://www.youtube.com/watch?v=6cC6auk70t4>) defamed Plaintiff. Specifically, Defendant falsely stated Plaintiff “pretty much assaulted” him.
17. Defendant’s defamatory statements constitute defamation *per se* and damages are presumed without further proof thereof.
18. This case was previously non-suited and is being re-filed within six months of the prior non-suit.

CLAIM: DEFAMATION *PER SE*³

19. Plaintiff re-alleges all previous allegations.
20. All of the statements at issue were of and concerning the Plaintiff.
21. The damage to Plaintiff’s reputation from the statements was substantially apparent to any reasonable person.
22. The statements quoted in the paragraphs above are defamatory because they are statements of fact as opposed to opinions, since they can be proven true or false and in fact Plaintiff did not attack or assault Defendant, Plaintiff did not inappropriately touch or molest Defendant, Plaintiff did not try to steal Defendant’s property or extort

³ Plaintiff contends Defendant’s statements are defamatory *per se* but alternatively pleads they constitute ordinary defamation or defamation *per quod*.

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money from Defendant, Plaintiff did not tell Defendant she was going to arrest or even cite Defendant for being a pedestrian, Plaintiff did not violate Defendant's rights by detaining him longer than necessary in order to send messages or texts during the traffic stop, Plaintiff did not communicate any intention to stalk or harass Defendant, Plaintiff did not lie, abuse her power or abuse Defendant, and Plaintiff never told her colleagues that she knew the item in question was not a gun or weapon and only wanted to prevent Defendant from recording her. In fact Plaintiff still contends that her requests for Defendant to set the object down only arose from her officer safety concerns.

23. Defendant published the defamatory statements. The defamatory statements at issue were published on the Internet where they were widely accessible by the general public (either directly or through a simple Google search), and were seen by Plaintiff's family, friends, co-workers, as well as numerous acquaintances, and others both inside and outside of the law enforcement community. Defendant acted with actual malice and ill will and possessed actual knowledge of the defamatory nature of his statements and conducted himself with a reckless disregard thereof at all times relevant. Defendant knew Plaintiff did not assault him and in fact when Adam Kokesh pointed out that Plaintiff "could have done a lot worse", Defendant agreed "Oh, absolutely, yeah I I certainly am lucky in that aspect ah that I didn't get my ass kicked. Um so anyway I I'm sure if it was a different if it was like a male like my size eh it would have probably been quite a bit different to be quite honest". In addition, to further illustrate ill will, it should be noted that subsequent to the traffic stop on May 26, 2012, Defendant posted three separate postings on

VirginiaCopBlock Facebook page in which his anger and contempt regarding the traffic stop and Virginia State Police were apparent: "This happened to me about 2 hours ago. These cops are CRAZY." followed by "Apparently, "Memorial Day Weekend" to the Virginia State Police means HARASS everyone they possibly can while out on the roads this weekend. I have a suggestion for all you Thugs with a badge: LEAVE PEACEFUL PEOPLE ALONE! Stay in your homes people, the POLICE are looking to kidnap and extort money out of ANYONE they can.". One of the post begins with, "COUNTLESS Virginians are ashamed of you people and what you criminals do to people. Ashamed, Disappointed, confused, angry, etc etc, the list goes on. You people (police) are just as much if not more of a threat to society than any "gang", because that's literally what you are" and ends with "You should be ashamed of yourselves. You're nothing but unjustified violence."

24. As a proximate cause of Defendant's defamatory statements, Plaintiff suffered damage to her reputation, emotional injury and pain and suffering, humiliation, stress, and anger and out of pocket damages that will be proved at trial. Additionally, Plaintiff's defamatory postings generated lots of comments and hits to the website, showing a wide actual publication to thousands of people. As a proximate cause thereof, and because the postings identify Plaintiff by name, Plaintiff lives with the fear that a deranged person who saw one of Defendant's defamatory statements might try and locate Plaintiff and cause her additional harm.
25. Defendant willfully and wantonly defamed Plaintiff and acted with actual malice and a reckless disregard of the legal rights of Plaintiff; as such, Plaintiff seeks \$350,000 in


punitive damages in order to punish Defendant for this conduct and deter him and others from engaging in similarly reprehensible conduct.

WHEREFORE, Plaintiff M. H. McKenney, by counsel, respectfully requests that the Court grant her compensatory damages against the defendant in the amount of \$1,000,000 and punitive damages in the amount of \$350,000 and pre-judgment interest plus all other such relief as is proper and warranted by the Court.

TRIAL BY JURY REQUESTED

M. H. McKenney

By Counsel



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