

VIRGINIA: IN THE CIRCUIT COURT FOR THE CITY OF RICHMOND

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|-----------------------------------------|---|------------------------------|
| TONYA D. CHAPMAN, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | CASE NO.: CL 21 _____ |
| |) | |
| E.W. SCRIPPS COMPANY, |) | |
| d/b/a WTVR CBS 6 or WTVR-TV, |) | |
| |) | |
| Serve: |) | |
| |) | |
| SCRIPPS MEDIA, INC., |) | |
| d/b/a WTVR CBS 6 or WTVR-TV, |) | |
| |) | |
| Serve: Corporation Service Company |) | |
| 100 Shockoe Slip, 2 nd Floor |) | |
| Richmond, VA 23219 |) | |
| |) | |
| and |) | |
| |) | |
| JONATHAN BURKETT, |) | |
| |) | |
| Defendants. |) | |

COMPLAINT

For her Complaint under Rule 3:2 of the Rules of the Supreme Court of Virginia, the plaintiff, Tonya D. Chapman, by counsel, states as follows:

NATURE OF THE CASE

1. This matter involves common law claims for defamation of character based on statements the defendant, Jonathan Burkett, made while working as a reporter for WTVR-TV Channel 6, a CBS affiliate, which were published on television and on the internet at wtvr.com.

PARTIES, JURISDICTION & VENUE

2. Tonya D. Chapman ("Chapman") resides in Arlington, Virginia. She is currently the Chair of the Virginia Parole Board.

3. Jonathan Burkett ("Burkett" or "defendant") is a journalist and/or reporter for WTVR-TV. Burkett lives in or around Richmond, Virginia.

4. On the WTVR-TV web site (<https://www.wtvr.com/about-us>), it states: "WTVR-TV, the South's First Television Station located on West Broad Street in Richmond, Virginia, is a legacy CBS affiliate owned by the E. W. Scripps Company."

5. E.W. Scripps Company is a Delaware corporation which is headquartered in Cincinnati, Ohio. E.W. Scripps Company owns and operates WTVR-TV.

6. Scripps Media, Inc. is a Delaware corporation, which is headquartered in Cincinnati, Ohio.

7. Upon information and belief, Scripps Media, Inc. also own and operates WTVR-TV.

8. This court has personal jurisdiction over the defendants E.W. Scripps Company and Scripps Media, Inc. as they own and operate a television station, WTVR-TV, in the Commonwealth of Virginia.

9. This court has personal jurisdiction over the defendant Burkett as he works and resides in the Commonwealth of Virginia. In addition, the court has personal jurisdiction over all of defendants pursuant to Va. Code § 8.01-328.1(A)(3) as they have caused tortious injury in Virginia.

10. Venue is proper in the Circuit Court for the City of Richmond, as the defamatory statements that form the subject of this lawsuit were published in Richmond, Virginia.

FACTUAL ALLEGATIONS

A. BURKETT EMPLOYEE OF WTVR-TV AND E.W. SCRIPPS COMPANY AND/OR SCRIPPS MEDIA, INC.

11. At all relevant times, the defendant Burkett was an employee of WTVR-TV in Richmond, Virginia, a television station owned and operated by E.W. Scripps Company and/or Scripps Media, Inc.

12. At all relevant times, the defendant Burkett was acting within the course and scope of his employment with the defendants, E.W. Scripps Company and/or Scripps Media, Inc.

B. PAROLE OF VINCENT L. MARTIN

13. In April 2020, the Virginia Parole Board granted parole to Vincent L. Martin. The 63-year-old Martin had served roughly forty years in prison for killing a Richmond police officer in 1979.

14. Martin was originally scheduled to be released in April, but his release was postponed twice. He was ultimately released from prison on June 10, 2020.

15. Martin's parole was criticized by numerous people, including members of the police community and several Republican legislators in the Virginia House and Senate. Upon information and belief, some of these people filed complaints with the state's Fraud, Waste and Abuse hotline.

16. Based on these complaints, the Office of the State Inspector General ("OSIG") began an investigation into Martin's parole. The Inspector General was Michael Westfall.

17. On July 28, 2020, OSIG released the final report of its investigation into the Virginia Parole Board and Martin's release to Brian Moran, Virginia's secretary of public safety and homeland security. In early August the full six-page report was also released to senior state Republican leaders.

18. Despite notices at the beginning and end of the report directing its recipients not to "further disseminate this report to preserve the integrity of the investigation," the report was leaked to the media.

C. CHAPMAN'S HISTORY WITH THE VIRGINIA PAROLE BOARD

19. On April 16, 2020, the plaintiff, Tonya Chapman, was appointed to serve as the Chair of the Virginia Parole Board. Prior to that time, Ms. Chapman was not a member of the Parole Board.

20. Chapman has a long and extensive vocational history in law enforcement and public safety having served first as a police officer, Deputy Chief of Police for the City of Richmond, and later as the Police Chief for the City of Portsmouth. She also served as Deputy Secretary of Public Safety and Homeland Security under the former governor of Virginia, Terry McCauliffe.

21. Chapman was not a member of the Virginia Parole Board when it decided to parole Vincent Martin and did not participate in the Parole Board's decision.

D. UNAUTHORIZED RELEASE OF PRELIMINARY OR DRAFT OSIG REPORT

22. As noted above, OSIG's full report was released to senior state Republican leaders in early August 2020.

23. Almost immediately thereafter, Mark Obenshain, a Republican state senator, wrote a column that appeared in THE ROANOKE TIMES, a newspaper, on August 13, 2020. https://roanoke.com/opinion/columnists/obenshain-a-parole-board-run-amok/article_69484185-b8db-507c-9184-5d9815067d93.html

24. In the column, Obenshain wrote as follows:

Evidently, Secretary of Public Safety Brian Moran received a preview of the OSIG report days before its issuance and immediately gave a copy to the Parole Board — the very agency under investigation. What did that initial version of the report say? Were there other drafts before that? What changes did the governor's office request?

25. Upon information and belief, Obenshain knew the answer to his own question — that is, that there were "other drafts" of the OSIG report — because he had been advised of that fact by someone working within OSIG.

26. In October 2020, in an article appearing in THE RICHMOND TIMES-DISPATCH, Mark Bowes, the reporter refers to a letter written by House Minority Leader Todd Gilbert and Senate Minority Leader Tommy Norment, Jr. to Inspector General Westfall.

27. The letter notes that "they (Gilbert and Norment) **have learned that Westfall's office** 'has made additional findings and produced one or more additional reports related to' an earlier administrative investigation of the Virginia Parole Board." https://richmond.com/news/local/crime-and-courts/state-gop-legislative-leaders-ask-inspector-general-to-release-additional-investigative-reports-of-parole-board/article_66131a9d-ac3a-54cf-bf6e-8dbe9ef228bb.html

28. Upon information and belief, Gilbert and Norment were not making these assertions blindly. They had been advised of these so-called "draft reports" and their content by someone from within OSIG.

29. OSIG deliberately declined to release these "draft reports." According to a press release from OSIG dated March 4, 2021:

OSIG releases final reports that have official conclusions and findings verified by indisputable evidence. Draft reports may contain allegations that are not completely vetted or unsupported by facts and may require corrections before they become final reports.

"An allegation is a claim or assertion that someone has done something wrong, often made without proof," said Westfall. "OSIG will not release a final report that contains unfounded allegations that could damage its integrity and reputation as an independent agency. I caution anyone purporting to have a draft document to not interpret it as being anywhere close to a final report."

Westfall stressed that any OSIG draft report is confidential and remains a working investigation. He added that OSIG is statutorily required to report to a prosecutor any allegations deemed reasonable and validated with appropriate evidence.

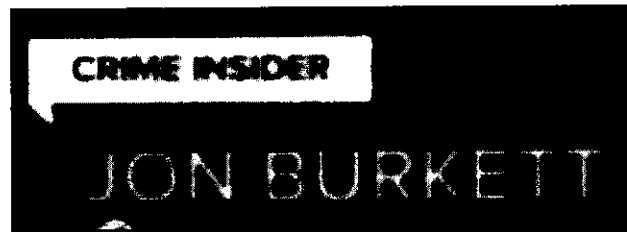
E. Defamatory PUBLICATIONS

30. In February 2021, the defendant Burkett, working at all times for WTVR-TV, E.W. Scripps Company, and/or Scripps Media, Inc., published two stories over the television airwaves, on the internet, and in videos online related to the Virginia Parole Board.

31. The first story was published on or about February 23, 2021 and entitled: **"Report details violations made granting parole to a man who killed a Richmond**

Police Officer. Nothing in the title of the article or the article itself explained that the so-called "Report" was actually a draft or preliminary report.

32. In the video and telephone broadcast of the story, the defendant Burkett is referred to as "Our Crime Insider," suggesting to the viewer that he is ferreting out criminal behavior. His byline also includes the tag: "Crime Insider Jon Burkett."



33. In the article, the defendant Burkett writes: "CBS 6 Problem Solvers have since obtained that *original* 13-page report." Defendant added that the "report is *loaded with details about violations* of parole board policy and the law."

34. Upon information and belief, Burkett or someone acting on his behalf shared the 13-page document with Matt Bristow, who Burkett writes is a retired Air Force judge advocate and lawyer. Burkett does not explain why the 13-page document was shared with Bristow.

35. Burkett writes that "Bristow said after reading the state inspector general's original 13-page report, he can see why only six pages were made public." Burkett then quotes Bristow, who stated: "It definitely looks like information was withheld to avoid embarrassment or other undesirable publicity."

36. Upon information and belief, Burkett or someone else at WTVR-TV solicited Bristow's opinion solely for the purpose of providing a slanted and distorted explanation for why portions of the 13-page document had been altered or removed.

37. Despite sharing the 13-page document with Bristow, Burkett did not make the entire 13-page document available online. He did, however, quote selected portions of the document.

38. Burkett's written piece is located online at <https://www.wtvr.com/news/problem-solvers/problem-solvers-investigations/parole-violations-vincent-martin-case> and can be found there to this day. A true and accurate copy of the article is attached hereto as Exhibit A.

39. Hundreds and potentially thousands of people view the content on WTVR-TV's web site – wtvr.com – each day. Thousands of people watch the news on WTVR-TV each day.

40. In the article, Burkett refers to the 13-page document as either the "original 13-page report" or the "state inspector general's original 13-page report."

41. Burkett does not call the 13-page document a draft report; he does not call it a preliminary report.

42. Later in the article, Burkett states that "Inspector General Michael Westfall wrote that Bennett violated the state constitution by not remaining impartial in the Martin case." He does not provide a source or an explanation for his conclusion that Inspector General Michael Westfall wrote the 13-page document.

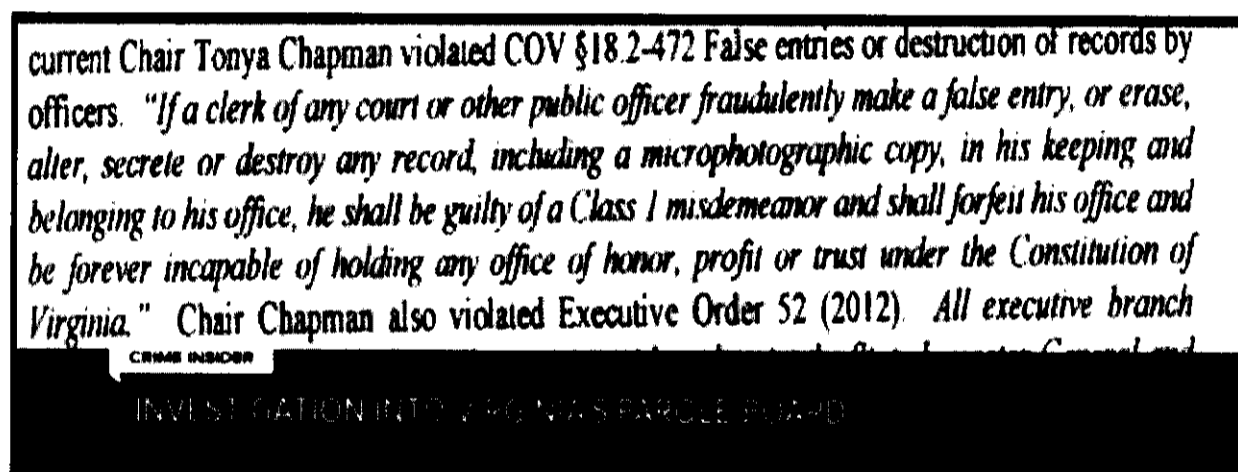
43. In the same article, Burkett writes: "The inspector general determined that Bennett and current chair Chapman, both violated multiple state codes and policies and violated the constitution of Virginia." Again, Burkett does not provide a source or an explanation for his conclusion that these were the Inspector General's determinations.

44. Burkett continued: "Specifically, Westfall wrote that Chapman violated the state code involving false entries of records by officers, and an executive order requiring all executive branch agencies to cooperate with a state inspector general investigation to the fullest extent." The relevant state code section is Va. Code § 18.2-472.

45. Given that the 13-page document was not published, it is unclear whether it was signed by Michael Westfall. However, based on a lawsuit recently filed in Richmond, it appears that the 13-page document was written by Jennifer Moschetti, not Michael Westfall, as she claims to have been the primary investigator on the parole board matter.

46. The online article is accompanied by a video. The video was originally published on television and continues to appear on the wtvr.com website.

47. In the news video, the defendants publish what they purport to be a piece of the 13-page document:



48. At the bottom of the video published online, it states: "Parts of report written by inspector general removed or altered before released." (sic). Again, the video – like the article – attributes the writing of the report to the Inspector General.

49. The defamatory statements contained in paragraphs 44 and 47 above were removed from the final OSIG report, because they were not true.

50. On or about February 25, 2021, Burkett and the defendants published a second story on television and online relating to the 13-page report. A true and accurate copy of that story is attached hereto as Exhibit B. It can also be found online at <https://www.wtvr.com/news/local-news/spokesperson-says-13-page-watchdog-report-detailing-wrongdoing-by-virginia-parole-board-was-released-without-consent>.

51. The story was entitled "Spokesperson says 13-page report detailing wrongdoing by Virginia Parole Board was released without consent."

52. Burkett either wrote the story or participated in producing the story.

53. In the television broadcast of the story, the video of which also appears online, Burkett stated:

Earlier today we requested an interview with State Inspector General Michael Westfall and sent his office a number of questions regarding that 13-page report you're speaking about. We wanted to know if the inspector general was asked or pressured by anyone to edit it down and remove numerous details about the violations that he says were founded.

54. Similarly, in the online story, Burkett states that "we" "sent [the Inspector General's] office a number of questions regarding the report – asking if he were pressured by anyone to edit it and remove numerous details about the violations that he said were founded."

55. Later in the story and in the online video/TV broadcast of the story, Burkett states:

The Martin parole case has been clouded by controversy, after the state's official government watchdog found the

Virginia Parole Board, its former chair Adrienne Bennett, and its current chair Tonya Chapman, violated the state constitution and several laws in their handling of the case.

56. Finally, Burkett states:

In a more extensive and detailed version of the report that was made public last year, Inspector General Michael Westfall ... found that Chapman doctored board meeting minutes, which falls under the law regarding false entries – a Class One misdemeanor.

57. The television broadcasts detailed above were broadcast throughout the greater Richmond, Virginia area.

COUNT I - DEFAMATION

58. Chapman repeats and re-alleges the factual allegations contained in paragraphs 1 – 57 as if fully set forth herein.

59. The statement by the defendants in the printed article on the internet, in the broadcast news piece, and in the online video that "[t]he inspector general determined that Bennett and current chair Chapman, both violated multiple state codes and policies and violated the constitution of Virginia" (§ 43) was false when published by the defendants and the defendants knew that such statement was false when they published it. Alternatively, when the defendants made the above statement, they acted so recklessly as to amount to a wilful disregard for the truth, that is, with a high degree of awareness that the statement was probably false.

60. As a result of the defamatory statement by the defendants, Chapman has suffered injury and harm to both her good personal reputation and her good business reputation, as well as great humiliation, shame, vilification, exposure to public infamy, scandal, and disgrace.

COUNT II - DEFAMATION

61. Chapman repeats and re-alleges the factual allegations contained in paragraphs 1 – 60 as if fully set forth herein.

62. The statement by the defendants in the printed article on the internet, in the broadcast news piece, and in the online video that "Westfall wrote that Chapman violated the state code involving false entries of records by officers, and an executive order requiring all executive branch agencies to cooperate with a state inspector general investigation to the fullest extent" (§ 44) was false when published by the defendants and the defendants knew that such statement was false when they published it. Alternatively, when the defendants published the above statement, they acted so recklessly as to amount to a willful disregard for the truth, that is, with a high degree of awareness that the statement was probably false.

63. As a result of the defamatory statement by the defendants, Chapman has suffered injury and harm to both her good personal reputation and her good business reputation, as well as great humiliation, shame, vilification, exposure to public infamy, scandal, and disgrace.

COUNT III - DEFAMATION

64. Chapman repeats and re-alleges the factual allegations contained in paragraphs 1 – 63 as if fully set forth herein.

65. The statement by the defendants in the printed article on the internet, in the broadcast news piece, and in the online video that

The Martin parole case has been clouded by controversy, after the state's official government watchdog found the Virginia Parole Board, ... , and its current chair Tonya

Chapman, violated the state constitution and several laws in their handling of the case.

was false when published by the defendants and the defendants knew that such statement was false when they published it. Alternatively, when the defendants published the above statement, they acted so recklessly as to amount to a willful disregard for the truth, that is, with a high degree of awareness that the statement was probably false.

66. As a result of the defamatory statement by the defendants, Chapman has suffered injury and harm to both her good personal reputation and her good business reputation, as well as great humiliation, shame, vilification, exposure to public infamy, scandal, and disgrace.

COUNT IV - DEFAMATION

67. Chapman repeats and re-alleges the factual allegations contained in paragraphs 1 – 66 as if fully set forth herein.

68. The statement by the defendants in the printed article on the internet, in the broadcast news piece, and in the online video that

In a more extensive and detailed version of the report that was made public last year, Inspector General Michael Westfall ... found that Chapman doctored board meeting minutes, which falls under the law regarding false entries – a Class One misdemeanor.

was false when published by the defendants and the defendants knew that such statement was false when they published it. Alternatively, when the defendants published the above statement, they acted so recklessly as to amount to a willful disregard for the truth, that is, with a high degree of awareness that the statement was probably false.

69. As a result of the defamatory statement by the defendants, Chapman has suffered injury and harm to both her good personal reputation and her good business reputation, as well as great humiliation, shame, vilification, exposure to public infamy, scandal, and disgrace.

70. All of the statements made by the defendants and enumerated in Counts I through IV were defamatory *per se* as they:

- a) imputed to Chapman an unfitness to perform the duties of her position as Chair of the Virginia Parole Board; and/or
- b) prejudiced Chapman in her occupation, profession or trade; and/or
- c) imputed that Chapman had committed some criminal offense involving moral turpitude, for which she, if the charge were true, could be indicted and punished.

PUNITIVE DAMAGES

71. Finally, when the defendants made the above-referenced defamatory statements to the media in Counts I-IV, the defendants knew the statements to be false or acted so recklessly as to amount to a willful disregard of the truth. Consequently, Chapman is also entitled to punitive damages.

72. **Chapman demands a trial by jury.**

WHEREFORE, Tonya D. Chapman moves this Honorable Court for judgment against E.W. Scripps Company, Scripps Media, Inc., and Jonathan Burkett, jointly and severally, in the amount of Five Million Dollars (\$5,000,000.00) in compensatory damages, Two Million Dollars (\$2,000,000.00) in punitive damages, prejudgment and post-judgment interest, court costs and other expenses expended on her behalf.

TONYA D. CHAPMAN

Christian L.
Connell

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Christian L. Connell
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By *Christian Connell*
Counsel

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