

Albright, Justice, concurring:

**FILED**  
**December 12, 2001**  
RORY L. PERRY II, CLERK  
SUPREME COURT OF APPEALS  
OF WEST VIRGINIA

**RELEASED**  
**December 12, 2001**  
RORY L. PERRY II, CLERK  
SUPREME COURT OF APPEALS  
OF WEST VIRGINIA

I fully concur in the judgment of the Court and in Justice Davis' opinion.

I write separately to note disagreement with a position Appellees asserted. Appellees suggested to us, as I understood them, that because the author of the commercials at issue in this case asserted a belief that the information contained in the commercials relating to Appellant's past actions was factually accurate, neither Appellee could be found guilty of malice or be found to have defamed Appellant.

Respectfully, I suggest that the issue is what Appellees, or either of them, knew or should have known regarding the factual content and the context of the commercials. Appellees' appreciation of the factual content and the context of the commercials springs from the knowledge and experience of the leadership, staff and respective governing bodies of each of the Appellees. What a hired wordsmith knew or should have known is but a part of the picture. Appellees cannot be permitted to hide behind deficiencies in that wordsmith's appreciation of what his commercials said to the public about Appellant.

I am authorized to state that Justice Starcher joins in this concurring opinion.