

DO NOT REMOVE
FILE COPY
FILE COPY

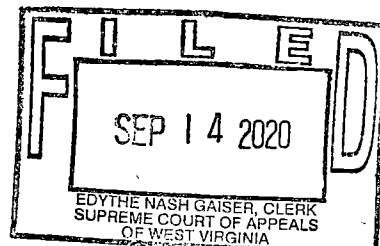
In the Supreme Court of Appeals of West Virginia

Docket No. 20-0349

William David Haught
Plaintiff below, Petitioners

v.

David Fletcher, individually and as
Mayor of Town of Belle, West
Virginia and Town of Belle, West
Virginia, a municipal corporation
Defendants below, Respondents



Petitioner's Reply

Michael T. Clifford, Esq. (#750)
723 Kanawha Blvd. E.
Ste. 1200 Union Building
Charleston, WV 25301
304-720-7660
mclifherd@aol.com
Counsel for Petitioner

REPLY ARGUMENT

The Defendant, David Fletcher is not entitled to a qualified privilege defense in this matter because at the time that he made the statement to City Council members it was NOT in good faith. He had already been informed of the results of an internal investigation of the matter which clearly proved that the allegations were NOT true. The statement was not made in a spirit of or the context of informing council members of a matter that had been cleared up. The Respondent made and published a statement that he knew was false when he made it and did so to disparage Petitioner. The statement was made with a bad motive to affect the reputation of Petitioner with persons who could determine his salary and employment. These defeat a qualified privilege defense.

Respondent's brief acknowledges the comments regarding Petitioner's "alleged" actions to Town representatives following a council meeting in the confines of council chambers. (*emphasis added*). What Respondent omits is the fact that Respondent knew that the comments he made were FALSE and he knew that they were false.

The Court ruled that the Defendant, David Fletcher, individually, was entitled to a dismissal as a matter of law as a result of a qualified privilege.

Defendants allege that the communications were "qualified privileges" and, because of the same, even if the facts alleged are true, plaintiff may not recover. However, a qualified privilege only exists when a person publishes a statement in good faith about a subject in which he has an interest or duty and limits the publication of the statement to those persons who have a legitimate interest in the subject matter. *Swearingen v. Parkersburg Sentinel Co.*, 125 W.Va. 731, 744, 26 S.E. 2d 209, 215 (1943).

Plaintiff's complaint alleges, inter alia, that "defendant Fletcher knew that his statements as to the plaintiff having an extramarital affair were false, were published as being defamatory, imputing criminal conduct to said plaintiff, and with the intent to cause harm to the plaintiff's reputation and otherwise", i.e. Further, the defendant Fletcher knew at the time of making the statements that the statements were false.

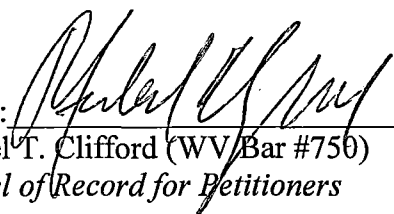
It was error for the Circuit Court to dismiss Petitioner's claim as a mater of law.

Petitioners have asserted sufficient facts to allow a jury to decide if the conduct of the Defendants was *slander per se* and thereby actionable.

Petitioner further relies upon the cases, rules and statutes cited in his opening brief

CONCLUSION

Based upon the above and the evidence in this case, the Circuit Court erred when it GRANTED the Defendant's Motion to Dismiss as to David Fletcher, individually, as there are clearly demonstrated genuine issues of material fact in this case and David Fletcher is not immune from liability under any statutory provision. Therefore, the Plaintiff respectfully requests that this Honorable Court reverse the ruling of the Circuit Court of Kanawha County of Dismissal as to David Fletcher, individually and allow this case be tried before the province of the jury in the interests of justice and equity.

Signed: 
Michael T. Clifford (WV Bar #750)
Counsel of Record for Petitioners

**In the Supreme Court of Appeals of West Virginia
Docket No. 20-0349**

**William David Haught
Plaintiff below, Petitioners**

v.

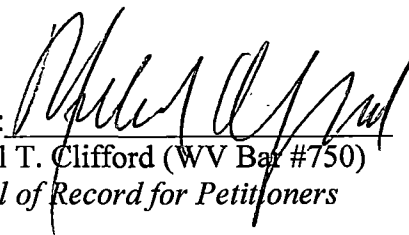
**David Fletcher, individually and as
Mayor of Town of Belle, West Virginia and Town of Belle, West Virginia, a
municipal corporation
Defendants below, Respondents**

CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of July, 2020, a true and accurate copy of the foregoing **Petitioner's Reply Brief** was deposited in the U.S. Mail in postage-paid envelope addressed to counsel for all other parties to this appeal as follows:

Cy A. Hill Jr.
Cipriani & Werner, P.C.
500 Lee St E Ste 900
Charleston, WV 25301

By email to: chill@c-wlaw.com

Signed: 
Michael T. Clifford (WV Bar #750)
Counsel of Record for Petitioners