



IN THE CIRCUIT COURT OF SHELBY COUNTY, ALABAMA

ROBERT R. RILEY, JR., an individual)
)
 Petitioner,)
)
 v.)
)
 ROGER SHULER, as an individual and)
 in his capacity as owner and operator of)
 THE LEGAL SCHNAUZER, a website,)
 and CAROL T. SHULER, as an individual and)
 in her capacity as an administrator of and)
 contributor to THE LEGAL SCHNAUZER,)
 a website,)
)
 Respondents.)

Civil Action No.: 2013-236

LIBERTY DUKE, an individual)
)
 Petitioner,)
)
 v.)
)
 ROGER SHULER, as an individual and)
 in his capacity as owner and operator of)
 THE LEGAL SCHNAUZER, a website,)
 and CAROL T. SHULER, as an individual and)
 in her capacity as an administrator of and)
 contributor to THE LEGAL SCHNAUZER,)
 a website,)
)
 Respondents.)

Civil Action No.: 2013-237

PETITIONER ROBERT R. RILEY'S
PETITION TO HOLD RESPONDENTS IN CONTEMPT

COMES NOW Petitioner Robert R. Riley, Jr. and moves this Court to hold Respondents Roger Shuler and Carol T. Shuler in contempt of this Court's September 20, 2013 Temporary Restraining Order (the "TRO") and this Court's October 1, 2013 Order

on the Petitions for Preliminary Injunction (the "Preliminary Injunction"). In support of this motion, Petitioner Riley states as follows:

1. This Court has previously entered the TRO and the Preliminary Injunction, copies of which are attached hereto.

2. Respondents were served with the TRO on September 29, 2013. The TRO specifically ordered Respondents

[T]o cease and desist immediately from publishing (including oral publication to any third party), posting online, or allowing to be posted online any defamatory statement about Petitioners, including, but not limited to, any statement that Petitioners had an extramarital affair, that Petitioner Riley fathered a child out of wedlock with Petitioner Duke or anyone else, that Ms. Duke had an abortion, that Petitioner Riley paid or was in any way involved in paying to Ms. Duke or anyone else any monetary funds from any source related to said alleged extramarital affair or abortion, that any such funds were paid by Petitioner Riley or anyone acting on his behalf in exchange for Ms. Duke having an abortion or were in any way related to an affair or an abortion, and that Petitioner Duke received any such funds. The Respondents are ordered to take all efforts to ensure that the subject information is taken off any and all websites that they enable, host, own and/or operate and that said information is not allowed to be posted or in any way published pending further Order of this Court. These efforts shall include, but not be limited to, taking the subject information off of the website known as "The Legal Schnauzer" and removing it from all video-sharing and video-posting websites including, but not limited to, Youtube.

3. The TRO further ordered that

[A]ll filings, pleadings, and exhibits filed in these cases shall be filed under seal and that their contents shall not be published – either in writing or orally – in any medium to any third party. Accordingly, unless otherwise ordered by this Court, the Respondents shall not publish or cause to be published in any medium – either in writing or orally – this Order, any filings, pleadings, and exhibits filed in these cases, or the contents of said filings, pleadings, and exhibits.

4. On September 30, 2013, the Court held a hearing on the Petitions for Preliminary Injunction. Respondents did not attend the hearing even though they were

provided notice of said hearing. That notice, contained in the TRO, was flagged when Respondents were served with it, which should have drawn Respondents' attention to the TRO and the date of the hearing on the Petitions for Preliminary Injunction.¹ At the hearing, the Court informed the parties that it would grant the Petitions for Preliminary Injunction.

5. On October 1, 2013, the Court issued the Preliminary Injunction, wherein Respondents' were

ordered to cease and desist immediately from publishing (including oral publication to any third party), posting online, or allowing to be posted online any defamatory statement about Petitioners, including, but not limited to, any statement that Petitioners had an extramarital affair, that Petitioner Riley fathered a child out of wedlock with Petitioner Duke or anyone else, that Ms. Duke had an abortion, that Petitioner Riley paid or was in any way involved in paying to Ms. Duke or anyone else any monetary funds from any source related to said alleged extramarital affair or abortion, that any such funds were paid by Petitioner Riley or anyone acting on his behalf in exchange for Ms. Duke having an abortion or were in any way related to an affair or an abortion and/or as part of an effort to conceal an abortion, and that Petitioner Duke received any such funds. The Respondents are ordered to take all efforts to ensure that the subject information is taken off any and all websites that they enable, host, own and/or operate and that said information is not allowed to be posted or in any way published pending further Order of this Court. These efforts shall include, but not be limited to, taking the subject information off of the website known as "Legal Schnauzer," taking the subject information off all Twitter accounts that any Respondent maintains, and removing the subject information from all video-sharing and video-posting websites including, but not limited to, Youtube.

¹ The Court heard testimony from Lieutenant Mike Dehart, who served Respondents on September 29, 2013 after the Shelby County Sheriff's Office had made multiple attempts to perfect service earlier that week. As this Court noted in its Preliminary Injunction, "one or more of the Respondents posted statements on their website, 'Legal Schnauzer,' since the entry of the September 20, 2013 Temporary Restraining Order and before September 29, 2013, including statements and video posted on September 27, 2013, that strongly suggest that Respondents were aware that the Shelby County Sheriff's Office was attempting to serve legal papers at their home and that Respondents were purposefully avoiding being served." Lieutenant Dehart testified that Respondents discarded the services papers, including the TRO, by throwing them out of their car window after they were served and that Respondents did not retrieve said papers. This comports with Respondents' October 1, 2013 post on "Legal Schnauzer," wherein they admit that after being served, "[they] pulled away and threw [the] f----g papers out the window."

6. The Preliminary Injunction further ordered that

[A]ll filings, pleadings, and exhibits filed in these cases shall be filed under seal and that their contents shall not be published – either in writing or orally – in any medium to any third party. Accordingly, Respondents shall not publish or cause to be published in any medium – either in writing or orally – this Order, any filings, pleadings, and exhibits filed in these cases, or the contents of said filings, pleadings, and exhibits.

7. Also on October 1, 2013, Respondents posted an article on “Legal Schnauzer” titled “Alabama Sheriff’s Department Resorts to Fake Traffic Stop To Harass Blogger For Posts About Bill Pryor and Gay Porn.” In that article, Respondents wrote that Petitioner Liberty Duke was “known here for her ugly affair with prominent Republican Rob Riley (complete with an abortion and the payment of hush money).” The article went on to say that Respondents “first wrote about [Petitioner Duke’s] affair with Rob Riley on January 24, 2013,” and provided a link to said article. These statements are not only false, defamatory, and libelous, but they violate the TRO.

8. The Shelby County Circuit Court Clerk’s Office served Respondents with the Preliminary Injunction via United States Mail on October 2, 2013.²

9. That same day, the Respondents published an article on “Legal Schnauzer” titled “Video Provides Evidence That Deputy In Shelby County Conducted A Fraudulent Traffic Stop Against Blogger.” In that article, Respondents wrote that they had been “reporting about Alabama lobbyist Liberty Duke and her extramarital affair with Birmingham attorney Rob Riley, the son of former GOP governor Bob Riley.”

² The Shelby County Circuit Court Clerk’s Office mailed the Preliminary Injunction on October 1, 2013, which constitutes proper service. See Ala. R. Civ. 5(b) (“Service upon the attorney or upon a party shall be made by delivering a copy to the attorney or the party or by mailing it to the attorney or the party at the attorney’s or party’s last known address[.]”)

These statements are not only false, defamatory, and libelous, but they violate the Preliminary Injunction.

10. On October 3, 2013, Respondents published an article on "Legal Schnauzer" entitled "Rob Riley Sues Blogger Over Posts About Extramarital Affair And Then Tries to Keep The Case Sealed From Public View." This article again claims that Petitioner Riley had "an extramarital affair with lobbyist Liberty Duke." The article quotes at length from a motion previously filed in this case. To top it all off, the article includes a video of Respondent Roger Shuler where he discusses the alleged affair, refers to Petitioner Duke as Petitioner Riley's "former mistress," shows a motion filed in the case to the camera, reads from said motion, and quotes from an affidavit filed in the case. Respondents' statements about the alleged affair are false, defamatory, and libelous and they violate the Preliminary Injunction. Furthermore, Respondent Roger Shuler admits during the video that he is aware that the case was filed under seal before beginning to read to the camera from portions of the sealed pleadings and filings.

11. Respondents' October 3, 2013 references to, quotes from, and video of pleadings and evidence filed in the case also violate the under-seal provisions of the Preliminary Injunction.

12. As further violations of the TRO and the Preliminary Injunction, Respondents have still not removed the following articles from "Legal Schnauzer" despite the Court's clear mandates in the TRO and the Preliminary Injunction:

a. A July 24, 2013 article titled "Did Rob Riley Really Have a Vasectomy That Would Prevented Unintended Pregnancy," wherein Respondents make

false, defamatory, and libelous statements about the alleged affair and its alleged consequences.

b. A July 10, 2013 article titled "Rob Riley Touts His Moral Standing On Gambling Before Abruptly Ending Interview On Sticky Affair," wherein Respondents make false, defamatory, and libelous statements about the alleged affair and its alleged consequences.

c. A July 8, 2013 article titled "Alabama GOPer Rob Riley Claims He is Not Capable Of Causing A Pregnancy With Lobbyist Liberty Duke," wherein Respondents make false, defamatory, and libelous statements about the alleged affair and its alleged consequences.

d. A July 2, 2013 article titled "Rob Riley Had An Affair With Lobbyist Liberty Duke, Leading to Pregnancy And Payments For Abortion," wherein Respondents make false, defamatory, and libelous statements about the alleged affair and its alleged consequences.

e. A January 24, 2013 article titled "Alabama Republican Rob Riley Experiences Fallout From A Messy Affair With Lobbyist Liberty Duke," wherein Respondents make false, defamatory, and libelous statements about the alleged affair and its alleged consequences.

13. Civil contempt is the "willful, continuing failure or refusal of any person to comply with a court's lawful writ, subpoena, process, order, rule, or command that by its nature is still capable of being complied with." Ala. R. Civ. P 70A(a)(2)(D). Civil contempt can be either direct or constructive. Ala. R. Civ. P 70A(a)(2). Direct contempt requires that the contempt be made in the physical presence of the court. Carroll v. State,

350 So. 2d 723, 728 (Ala. Crim. App. 1977) (noting that “[t]hree elements must coalesce in order to remove a contempt from the general category of ‘constructive’ to the instantly punishable class of ‘direct’ contempt: (1) The contempt must be committed in the actual physical presence of the court; (2) every element of the contempt must be within the personal knowledge of the judge; and (3) the contempt must require immediate vindication, making delay an unfeasible alternative.”) (internal citations omitted).

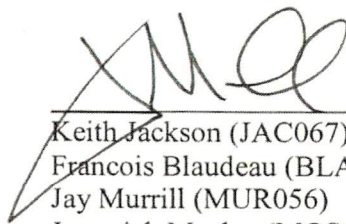
14. The Respondents’ above-described non-compliance with the TRO and the Preliminary Injunction constitutes on-going civil, constructive contempt. Respondents’ on-going contempt not only is an affront to this Court’s clear orders, but it causes on-going injury to the Petitioners through the continued publication of false, defamatory, and libelous statements.

15. In light of the foregoing, Petitioner Riley respectfully requests that the Court find that the Respondents are in contempt of the TRO and the Preliminary Injunction and requests that the Court exercise its authority pursuant to Ala. R. Civ. P. 70A(e)(2) to require Respondents to comply with this Court’s orders.

Done and dated this 4th day of October, 2013.

**This matter will be set for hearing before the Honorable Claude Neilson
at the Shelby County Courthouse in Columbiana.**

Respectfully submitted,



Keith Jackson (JAC067)

Francois Blaudeau (BLA096)

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OF COUNSEL:

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CERTIFICATE OF SERVICE

I hereby certify that on the 4th day of October, 2013, a copy of the foregoing was filed with the Clerk of the Court and that a copy of same was mailed to the following:

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