

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

SHIRLEY SHERROD,)
)
) Plaintiff,)
)
)
) v.) Case No. 1:11-cv-00477 (RJL)
)
) ANDREW BREITBART, LARRY)
) O'CONNOR, AND JOHN DOE,)
)
) Defendants.)
)

DECLARATION OF JOHN DOE

I, John Doe, under oath and through my counsel, state the following:

1. I am the person named by plaintiff as "John Doe" in the above-captioned case. I have personal knowledge of the facts contained herein and am competent to make this declaration, which I submit to provide factual support for a protective order to prevent my identity from being disclosed beyond this Court and the attorneys in this lawsuit.
2. If my identity in connection with this case is publicly disclosed, I will be subject to retaliation and harassment in my community and my workplace. I will suffer the almost certain loss of my job, which provides my family with its principal support. I will also fear for my personal safety and the physical safety of my family. The consequences for me and my family will be devastating. I believe I will be unemployable and unable to maintain my residency in the town where I have made my home for many years.
3. I am a full-time resident of the State of Georgia, where I work for a company. I have never traveled to the District of Columbia for business or otherwise, nor do I own any property in the District of Columbia. I expressly do not subject myself to the jurisdiction of this Court because I have no contacts with the District of Columbia.

4. In or around March 2010, local cable television in my area was showing a speech given by Shirley Sherrod at a NAACP banquet in Douglas, Georgia. I came across the speech by chance when many of the other channels on my cable system were not working. While I did not watch the whole speech, I learned through listening to portions of it that Mrs. Sherrod worked for the U.S. Department of Agriculture and was the rural development director for Georgia.

5. Parts of the speech were upsetting to me. For example, I heard her say, "There are jobs at USDA, and many times there are no people of color to fill those jobs . . . Have you heard of anybody in the federal government losing their job? That's all I need to say, okay?"

6. Based on the nature of the speech I heard, I believed that conservatives like Mr. Breitbart would be interested in commenting on Mrs. Sherrod's speech. Accordingly, in or around April 2010, I sent a message to Andrew Breitbart's websites about Mrs. Sherrod's speech.

7. Shortly thereafter, Mr. Breitbart called me. I said that I needed to have my identity protected from public disclosure. I fear today as I did then that if my identity were disclosed individuals at my job and in my community would persecute me. Indeed, because I live in a close-knit community and work with large numbers of black workers, my job, my livelihood, and my personal safety would be irreparably harmed if I were publicly identified.

8. Mr. Breitbart assured me that he would not publicly disclose my identity. He then asked about Mrs. Sherrod's speech. I told him what she said. He requested a copy of the speech and gave me his mailing address in California. I obtained a DVD containing the speech from the local cable channel and sent a copy to Mr. Breitbart. I made a copy for myself.

9. After approximately two months, on July 14, I received a telephone call from Larry O'Connor, who introduced himself as working for Mr. Breitbart and calling from

California. Mr. O'Connor said that he and Mr. Breitbart were interested in commenting about Mrs. Sherrod's speech on their blog. Mr. O'Connor said that they wanted to use the video from the speech I had mentioned to Mr. Breitbart but that the DVD that I had sent earlier did not play on their computers, so they could not access it and had not seen it. Mr. O'Connor asked if I could make another copy and send it to him by express delivery.

10. Mr. O'Connor also told me that he and Mr. Breitbart were working on a very tight deadline and asked if I could send them some of the video from the DVD over the Internet. He told me that the entire speech was too large to send by e-mail but that small portions could be sent online using software called "WM Capture." He assisted me in downloading the program to my computer so I could "capture" video from the DVD into a file on my hard drive as I played it in the computer's disk drive. Using the method Mr. O'Connor taught me, I made a video file of the part of the speech dealing with the white farmer, as they requested. Mr. O'Connor told me to send the excerpt to him through www.yousendit.com. He gave me his account information, and I signed on with his password and sent the file. I emailed Mr. O'Connor just after 10:30 P.M. to let him know that the file was on its way to him. See Ex. A.

11. During our call, Mr. O'Connor told me that Mr. Breitbart needed exact quotes from the speech because they were thinking about posting the text as soon as possible on their website to let people know that a longer article with the video would be coming soon. I therefore sent two emails to Mr. Breitbart with direct quotes from Mrs. Sherrod's speech. In the first email, I provided two verbatim quotes from the white farmer part of the speech. I also included what I had earlier told both Mr. Breitbart and Mr. O'Connor about Mrs. Sherrod saying that through prayer she was able to help the white farmer. See Ex. B. In the second email, I included Mrs. Sherrod's statement about no one in the federal government ever losing a job. I also said

that I was available to transfer that second excerpt from the speech to Mr. O'Connor. See Ex. C.

12. On July 18, Mr. O'Connor told me that the file that I had sent on July 14 was of poor quality because of background noise and that we needed to capture it again. I repeated what I had done earlier and also captured the part of the speech where Mrs. Sherrod makes statements about lifetime government jobs being available at the USDA. I sent both video excerpts to Mr. O'Connor through yousendit.com. The following day, on July 19, I mailed a DVD copy of the entire speech to Mr. O'Connor by UPS for delivery on July 20 and sent him an email with the tracking number. See Ex. D. From that point on, I had no further role in providing information to Mr. Breitbart or Mr. O'Connor. Like the rest of the public, I read the commentary for the first time when it was published on Mr. Breitbart's blog.

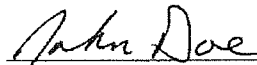
13. Mrs. Sherrod's Complaint contains many incorrect factual assertions about my role in this matter, which was limited to the contacts described above with Mr. Breitbart and Mr. O'Connor. The allegation that I inserted "inaccurate text" into an "edited video segment" of her speech and posted this "edited" video on YouTube is false. I inserted nothing into the excerpts, nor do I possess the skill to perform such a task. I have never posted video on YouTube or any other website in my life. I am just a citizen who heard parts of a public official's speech and sent them to a journalist for commentary.

14. With respect to the story of the white farmer, at the time, I had no idea that when Mrs. Sherrod was speaking to the NAACP about the white farmer she was referring to something which happened more than 20 years ago before she was appointed to her position in the federal government. My email to Mr. Breitbart on July 14, see Ex. B, shows that after seeing parts of her speech I believed that the white farmer came to her when she was a federal employee and the head of rural development for the USDA in Georgia. She never says in a direct way in any part

of the speech that I saw that the white farmer incident took place several decades back. I first learned there was a question about the date of the farmer story from Mrs. Sherrod's media appearances after Mr. Breitbart's blog post was published.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 9, 2013



John Doe

Exhibit A

From: [REDACTED]
To: loconnor@breitbart.com
Subject: RE: link
Date: Wed, 14 Jul 2010 22:40:20 -0400

Hera ya go!! Remember, I do not want to be Joe The Plumber. That guy was destroyed by the media.

Date: Wed, 14 Jul 2010 19:04:59 -0700
Subject: link
From: loconnor@breitbart.com
To: [REDACTED]

<http://www.wmrecorder.com/demo.php>

LARRY O'CONNOR
loconnor@breitbart.com
www.Breitbart.tv

Exhibit B

From: [REDACTED]
Date: Wed, 14 Jul 2010 22:00:38 -0400
To: Andrew Breitbart <andrew@breitbart.com>
Subject: Video

The flammable portion of the video is 57 seconds.

Here are a couple of exact quotes: She was talking about a White farmer needing financial help, and she was the Georgia Rural Development Director.

1) "I was trying to decide just how much help I wanted to give him"

2) "I didn't give him the full force of what I could do"

Now, in the video, she does walk this back some, telling the audience that through prayer, she was able to do it, and found that it's about poor people, not just black and white. But, I don't buy it, and she was just covering her ass.

Again, please keep my name out of this. It was on public TV, and I live in a very small town and have a house payment.
:)

[REDACTED]

Exhibit C

From: [REDACTED]
To: andrew@braibart.com
Subject: Another quote
Date: Thu, 15 Jul 2010 09:07:40 -0400

Shirley's quote about Federal Jobs.

At 2:20 minutes in her speech.

"Have you heard of anybody in the federal government losing their jobs? That's all I need to say"

Again, I don't want to be Joe the Plumber.

Have Larry get with me sometime tomorrow, and we will do the video transfer.

Be well,

[REDACTED]

[REDACTED]

Exhibit D

From: [REDACTED]
To: stagerightblogger@gmail.com
Subject: RE: link
Date: Mon, 19 Jul 2010 12:22:16 -0400

UPS Tracking #1Z0052W7010 [REDACTED]

Should arrive NLT 10am tomorrow.

Subject: Re: link
To: [REDACTED]
From: stagerightblogger@gmail.com
Date: Sun, 18 Jul 2010 00:27:29 +0000

Hey [REDACTED]

How goes it?

Are you free tonight or tomorrow so we can work on this some more? _____

Stage Right Blogger
www.bighollywood.breitbart.com

From: [REDACTED]
Date: Thu, 15 Jul 2010 03:03:12 +0000
To: Larry O'Connor <loconnor@breitbart.com>
Reply To: [REDACTED]
Subject: RE: link

Do you have a text number? [REDACTED]

From: "Larry O'Connor" <loconnor@breitbart.com>
Sender: stagerightblogger@gmail.com
Date: Wed, 14 Jul 2010 19:04:59 -0700
To: [REDACTED]
Subject: link

<http://www.wmrecorder.com/demo.php>

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LARRY O'CONNOR
loconnor@breitbart.com
www.Breitbart.tv

[REDACTED]