

IN THE TENNESSEE SUPREME COURT

MARK CLAYTON

Plaintiff,

vs.

ROY HERRON, *et. al.*

Defendants

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* Case No.
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APPELLANT RULE 10 MEMORANDUM IN SUPPORT OF EXTRAORDINARY APPEAL

Due to the procedural issues involved which made the filing of this document necessarily in haste, the Appellant requests a reasonable time for leave to amend which would be consistent with the normal time available for an amendment had the matter not depended on the entire case being thrown out of the Appeals Court on a technicality. The Appellant also requests that he may file affidavits and information also available on public record in other cases under TRCP 60.02 since the Court of Appeals feels that the Entire Record and the Attachments on Record in this case are not enough.

Factual Background

1. It is impossible in a short time to write the entire matter of threats which the Appellant faces for his life at the hands of the Appellees who have for over two years, actively promoted the false and defamatory statement, initially propagated by the Southern Poverty Law Center, that the Appellant is part of a “known hate-group.” The repetition of this false label consistently endangers the Appellant's life and is proven by the massive, extant public record to have no political value.
2. Public Advocate of the United States is a well-known 501(c)(4) organization based inside the

Washington DC Beltway for over three decades

3. Eugene Delgaudio, is President of Public Advocate of the United States, was a primary actor as Defendant in *[SPLC] Hill v. Public Advocate of the United States*, No. 12-CV-02550-WYD-KMT.
4. Mark Clayton, Appellant in this case as well as the Plaintiff in the former *Clayton v. Herron*, Case No.3:14-cv-00995 as well as the ongoing case of *Clayton v. Forrester, et. al.* Case No. 3:13-cv-01211, is the volunteer Vice President of Public Advocate of the United States.
5. The Southern Poverty Law Center inspired now convicted terrorist, Floyd Corkins, to stalk the Public Advocate headquarters and to use the SPLC “Hate Map” as a hit list for a terrorist murder spree. Floyd Corkins attacked the Family Research Council first and said that he planned to kill as many people as he could. More information on public record on the SPLC/Corkins matter can be read at <http://www.facebook.com/claytonforus>, the Appellant's facebook page. There can be no dispute of the facts contained therein when those facts are public record.
6. The Appellees act as surrogates for the SPLC and admit and avow their surrogacy on behalf of the SPLC in their pleadings in the record of this case. In their “Defendants' Memorandum In Support of Their Motion to Dismiss,” The Appellees (Defense) stated:

The [Appellees/Defendants] did not reach this decision in isolation.

Plaintiff has been a nuisance and a distraction to the important work of the TNDP at least since he shockingly won the 2012 democratic primary for election to the United States Senate. Plaintiff went on to lose embarrassingly in the general election and ran such an abysmal campaign that the Washington Post dubbed him '2012's Worst Candidate.' Plaintiff is also affiliated with a group the Southern Poverty Law Center identifies as a 'hate group,' and as is clear from reading Plaintiff's pleadings in this and

other cases, he seems to have only a loose connection with reality.

[emphasis added]

7. Last year, and as reported throughout the public record, the FBI removed the SPLC from their list of organizations listed on their website due to the Floyd Corkins terrorism scandal. However, this pleading of the Appellees came much later, just a few months ago on May 28, and the Appellees are still embracing their surrogacy of the Southern Poverty Law Center and its reckless and dangerous rhetoric, which incontrovertibly has at least once led to a security guard being shot (the security guard at the Family Research Council saved many people's lives by wrestling Mr. Corkins to the ground and arresting him). It could easily be argued that the Appellees are using the same rhetoric in this very suit to inflame and agitate for the assassination of the Appellant. In fact, the son of Mr. Stranch III, counsel for the Defense against this Appellant in another suit, already tried to have this Appellant arrested under a false premise on April 9, 2014, the episode of which is on video on the home page of claytonforsenate.com.

**Pursuant to Tennessee Rules of Civil Procedure 34(b) and 60.02 and Res Judicata The
Court of Appeals of Tennessee at Nashville Does Not Have the Authority to Deny
Appellant's Motion To Restrict Access**

8. The Appellant reserves the right to bring forth new information when necessary and as possible for the determination of this matter under Tennessee Rules of Civil Procedure 60.02. Technicalities, according to Tennessee Rules of Civil Procedure 60.02 are outweighed by truth and justice.
9. In the Appellant "Motion to Restrict Access" the Appellant in addition to the attachments, cited the case record.

10. The Court of Appeals only cited the attachments, and the Supreme Court must assume that the Court of Appeals erred in not considering the record. A note on the procedural background: the ink on this appeal has yet to dry, and the Appellant has yet to motion to include the preceding federal case from whence this state case is derived. Notwithstanding this, had the Court of Appeals consulted the record from the Davidson County Circuit Court, the Court of Appeals would have been aware of *Clayton v. Herron*, Case No.3:14-cv-00995 in the US District Court of Middle Tennessee in which the US District Court found a similarity to Hill and allowed the Appellant (Plaintiff in that case) to use his PO Box. Furthermore, the matter of whether or not to allow the Appellant to use his PO Box for security purposes was first decided nearly a year ago in the ongoing case of *Clayton v. Forrester, et. al.* Case No. 3:13-cv-01211 in the US District Court for Middle Tennessee.

The Court of Appeals Has Raised a Substantial Federal Question and Its Ruling Conflicts with Supremacy Clause, Article IV ¶2 of the United States Constitution, the ongoing federal case of Clayton v. Forrester, and Local US District Court Rules Protecting that Case: This Matter is Appealable on Federal Grounds

11. The Court of Appeals Decision Conflicts with Ongoing Proceedings in *Clayton v. Forrester, et. al.* Case No. 3:13-cv-01211 and Places Appellant and Appellees in Violation of Local Rule 83.03, conflict with the proceedings therein, and subject both sides to sanctionable conduct for using the Appellees home address outside of that US District Court case which is ongoing.
12. The Appellant and Appellees in this case are largely the same actors as in the ongoing US District Court for Middle Tennessee case of *Clayton v. Forrester, et. al.* Case No. 3:13-cv-01211. The Appellant in this case faces the same firm of Branstetter, Stranch, and Jennings in

both cases.

13. The Court of Appeals made no reference to interposition for authority to overrule the US District Court regarding the use of the Appellant's PO Box in lieu of his home or otherwise physical address. Had the Court of Appeals consulted the record, the Court of Appeals should have been able to see that the Court of Appeals needed to invoke or cite some power of authority under the Doctrine of Interposition to overrule the US District Court for Middle Tennessee. The Court of Appeals does not have the power to require the Appellant to use his home or otherwise physical address merely because a technical procedural rule for appealing a case conflicts with a US District Court ruling. The law favors the US District Court rulings and rules over the Court of Appeals in this instance.
14. The Supreme Court of Tennessee should overrule the Court of Appeals and save the time and expense of having to take this matter to the US District Court to determine what the US District Court has already determined – that the Appellant can use his PO Box as a security measure. The Supreme Court should equivocate the public advertising of the Appellant's home address or otherwise physical address as an advertisement for the assassination of the Appellant and should recognize the authority of the US District Court pursuant to the Supremacy Clause, Article IV ¶2 of the United States Constitution in this matter.

The Appellant Has a Right to Life, Liberty, and Property – In This Instance Wishes to Exercise Right of Life So that He Can Continue Right of Petition

15. The Appellants right to life is a necessary exercise in pursuit of his right to continue petitioning in this case, and the Supreme Court of Tennessee should uphold that right, notwithstanding any other reason, by vacating the Court of Appeals August 26, 2014 interlocutory order which

places Appellant unnecessarily in peril at the forefront of battle.

And he [King David] wrote in the letter, saying, Set ye Uriah in the forefront of the hottest battle, and retire ye from him, that he may be smitten, and die. And it came to pass, when Joab observed the city, that he assigned Uriah unto a place where he knew that valiant men were. the men of the city went out, and fought with Joab: and there fell some of the people of the servants of David; and Uriah the Hittite died also.

Mark Clayton
PO Box 92
Whites Creek, TN 37189

CERTIFICATE OF SERVICE

I hereby certify that a copy of this APPELLANT RULE 10 MEMORANDUM IN SUPPORT OF EXTRAORDINARY APPEAL was mailed to Defendants by US Mail on September 10, 2014.

Benjamin Gastel
J. Gerard Stranch, III
227 Second Avenue North
Fourth Floor
Nashville, Tennessee 37201-1631

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