

VIRGINIA:

IN THE CIRCUIT COURT FOR THE COUNTY OF HANOVER

M. H. McKENNEY,
Plaintiff,

v.

NATHAN COX,
Defendant.

RECEIVED and/or FILED

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CLERK'S OFFICE
HANOVER CIRCUIT COURT

Case No. CL15-1442

DEFENDANT'S SECOND SPECIAL PLEA IN BAR - TRUTH OF ALL ACTIONABLE STATEMENTS

Comes Now Defendant Nathan Cox, by counsel, and for this plea in bar as to truth of all actionable statements, states as follows:

Introduction

1. In this case, State Trooper M.H. McKenney sues Nathan Cox for defamation after Cox shared accounts of a traffic stop in which McKenney ordered him from his car, attempted to pull a cell phone from his hands because Cox was video recording the interaction, obstructed the collection of evidence and violated Cox's First Amendment and Fourth Amendment rights.

2. To prevail, McKenney must show the statements Cox made are both actionable and false. **Many of the alleged defamatory statements are not actionable as a matter of law. As for the rest, the video and other documents related to the incident show that these statements are true or substantially true.** While McKenney may be personally offended by some of the statements or the mode of their expression, they are not actionable. Indeed, they constitute protected speech under the First Amendment. Therefore this case should be promptly

dismissed. Alternatively, any purported statements the Court determines not to be actionable or which are true should be stricken before the case proceeds further.

3. As the Virginia Supreme Court has stated, **“Ensuring that defamation suits proceed only upon statements which actually may defame a plaintiff, rather than those which merely may inflame a jury to an award of damages, is an essential gatekeeping function of the court.”** Webb v. Virginian-Pilot Media Co., LLC, 287 Va. 84, 90 (2014). This plea in bar is intended to relieve the defendant and the Court of the undue burden of this vexatious litigation for substantially truthful and Constitutionally protected communications.

Facts

4. This suit asserts a single claim of defamation per se, but appears to cover statements made in eleven Internet posts or radio interviews.¹ The alleged defamatory statements relate to a traffic stop McKenney conducted on Cox on May 26, 2012. McKenney’s pleading identifies video of the incident in Footnote 2 (“Cell Phone Video 1” or “CPV1” and “Cell Phone Video 2” or “CPV2”) and Paragraph 9 (“Dashboard Video” or “DV”). Copies of the videos (and other video or audio files described below) are provided on the attached disk as Exhibit A. A

¹ Paragraph 5 of the Complaint alleges Cox filed a complaint with the Virginia State Police, McKenney employer, “that contained false allegations,” but the purportedly false statements are not pled. It appears it is pled as a deficient basis for asserting actual malice. Failure to plead the exact words of the allegedly defamatory statement is fatal to any defamation claim. Fuste v. Riverside Healthcare Ass’n, 265 Va. 127, 134 (2003). Moreover, complaints to law enforcement about officer’s conduct are absolutely privileged. Cf. Benitez v. Am. Std. Circuits, Inc., 2009 U.S. Dist. LEXIS 22113 (N.D. Ill. Mar. 18, 2009); Pope v. Motel 6, 114 P.3d 277 (Nev. 2005); Craig v. Stafford Constr., 271 Conn. 78, 91 (2004); Layne v. Builders Plumbing Supply Co., Inc., 569 N.E.2d 1104, 1106, (Ill. App. Ct. 1991); Miner v. Novotny, 304 Md. 164, 166 (1985); Gray v. Rodriguez, 481 So. 2d 1298, 1299-1300 (Fla. App. 1986); Magnus v. Anpatiellos, 516 N.Y.S.2d 31 (1987); Lewis v. Benson, 701 P.2d 751 (1985); Knox v. Dick, 665 P.2d 267 (1983); Campo v. Rega, 433 N.Y.S.2d 630, 631 (1980); Putter v. Anderson, 601 S.W.2d 73, 76-77 (Tex. App. 1980).

summary of the videos of the traffic stop, with timestamps cited, is provided for the Court's convenience as Exhibit B.

5. Cox obtained a copy of the Dashboard Video, as well as a copy of numerous text messages between McKenney and other officers about the traffic stop, through a FOIA request. Copies of the FOIA response and the text messages are included in Exhibit D.

6. The Complaint alleges publication of the following purportedly defamatory statements in connection with posting the Cell Phone Video on YouTube on **May 27, 2012** (see Exhibit C):

- “Virginia State Trooper McKeeney is CRAZY—Memorial Day Weekend Traffic Stop.”
- “had her hands all over me trying to prevent me from recording her”
- “threatened . . . with a citation for being a pedestrian on the highway.”
- “told me to get in my car or else she’d ticket me for being a pedestrian on the HIGHWAY!”

7. The Complaint alleges publication of the following purportedly defamatory statements in a video entitled “Explaining Yesterday’s Traffic Stop” on **May 27, 2012** (on Exhibit A).

- “literally attacks” . . . “she doesn’t leave any bruises or anything like that as far as I know but she places her hands on me quite a bit trying to steal my property, my cell phone.”
- “molests . . . trying to grab”
- “would issue . . . a citation for being a pedestrian on the highway”

8. The Complaint alleges defamation on **August 31, 2012** through the following statements being published on a website with a copy of the Dashboard Video (see Exhibit D):

- “had her hands all over”

- “threatened to cite . . . for being a pedestrian on the highway”
- “violates . . . 4th Amendment Rights by trespassing against my property (My Phone)”
- “knew very well it wasn’t a weapon and simply did not want to be recorded”
- “to extort more money”
- Tags on the article “corrupt police”, “police abuse”, “police abuse power”, and “police caught lying”.

9. The Complaint alleges defamation on **August 31, 2012** through the following statement being published on a copy of the Dashboard Video (see Exhibit A):

- “During this stop, Trooper McKenny exchanged several text messages with other officers in her department.”

10. The purported defamation of **March 26, 2014**, published in a post on an Internet site about McKenney’s first lawsuit against Cox (Exhibit E), consists of the following statements:

- “violated my rights”
- “knew it wasn’t a gun”
- “ended up admitted to her colleague that she knew it wasn’t a gun that she just didn’t want to be on youtube.”
- “If you don’t get in your car, I’m going to write you a ticket for being a pedestrian on the side of the highway.”

11. The purported defamation of **March 30, 2014** consists of the following statements from a radio interview posted on YouTube (see Exhibit A):

- “ended up coming after me and putting her hands on me um and some people classify that as assault uh trying to get uh trying to prevent me from filming.”
- “ended up admitting to her colleagues during that traffic stop that she knew it wasn’t a cell pho excuse me knew it wasn’t a gun she just didn’t want to be on quote unquote youtube.”

- “grabbed my cell my cell phone that was leaning on my car and turned it upside down facing down so it would not record her vehicle any longer.”

12. The purported defamation of **March 30, 2014** also consists of the following statements from another radio interview posted on YouTube (see Exhibit A):

- “actually started swatting toward my phone um and making contact with me because she didn’t want me recording her.”
- “admitted that she knew it wasn’t a cell phone, excuse me, she knew it wasn’t a ah firearm that I was holding although she continued to try to claim that it was, but she said to her colleagues she just did not want to be on youtube.”
- “something like I know where that guy lives I’m gonna keep an eye something like I’m gonna keep an eye on him and if he doesn’t correct these problems I’m gonna ah I’m gonna ticket him every 24 hours, or something like.”
- “went so far to grab my cell phone from the from the spoiler and turn it face down so it would stop recording her.”

13. The purported defamation of **April 17, 2014** consists of the following statements made in another radio interview (<http://www.cutthecordradio.com/podcast/ctcshow44.mp3> - see Exhibit A):

- “technically assaulted me several times after I got out of the car cause she didn’t want me to record her.”
- “ended up admitting to her colleague . . . knew it wasn’t a gun that she just didn’t want to be on youtube.”

14. The purported defamation of **May 8, 2014** consists of the following statements:

- “didn’t like me video recording her, so she literally tried to chase me around the vehicle um tried, and like swatting at me, making contact with me and my phone”.
- “admitted to her colleagues that she knew it wasn’t a gun, that she just didn’t want to be on youtube.”
- “knew it wasn’t a gun, she just wanted to violate my rights.”

- “threatened . . . a ticket for being a pedestrian on the highway if I didn’t get in my car an leave.”

15. The purported defamation of **March 28, 2015** consists of the statement “pretty much assaulted” (see Exhibit A).

Law

16. A plea in bar asserts a single issue (in this case, the truth or substantial truth of any actionable statements), which, if proved, creates a bar to a plaintiff’s recovery. The party asserting a plea in bar bears the burden of proof on the issue presented. **The issue raised by a plea in bar may be submitted to the circuit court for a decision based on a discrete body of facts identified by the parties through their pleadings**, or developed through the presentation of evidence supporting or opposing the plea. If the facts underlying the plea in bar are contested, a party may demand that a jury decide the factual issues raised by the plea. Conversely, if the facts are disputed and no demand for a jury is made, the whole matter of law and fact may be decided by the court. Hawthorne v. VanMarter, 279 Va. 566, 577-578 (2010).

17. In Virginia defamation law, falsity is an element of the claim. Gazette, Inc. v. Harris, 229 Va. 1, 15 (1985); see also Schaecher v. Bouffault, ___ Va. ___; 2015 Va. LEXIS 88 at *6 7(2015) (“An ‘actionable’ statement is both false and defamatory.”). **Slight inaccuracies of expression are immaterial, and it is sufficient to show that a statement or imputation is substantially true.** A plaintiff may not rely on minor or irrelevant inaccuracies to state a claim for libel. Jordan v. Kollman, 269 Va. 569, 576 (2005).

18. Pure **expressions of opinion are constitutionally protected** and cannot be the basis of a defamation action:

“The First Amendment to the Federal Constitution and article 1, section 12 of the Constitution of Virginia **protect the right of the people to teach, preach, write, or speak any such opinion, however ill-founded, without inhibition by actions**

for libel and slander. ‘[E]rror of opinion may be tolerated where reason is left free to combat it.’ Thomas Jefferson's First Inaugural Address (1801). ‘However pernicious an opinion may see[m], we depend for its correction not on the conscience of judges and juries but on the competition of other ideas.’ Gertz v. Robert Welch, Inc., 418 U.S. 323, 339-40, 94 S. Ct. 2997, 41 L. Ed. 2d 789 (1974).”

Chaves v. Johnson, 230 Va. 112, 119, 335 S.E.2d 97, 102 (1985). Statements that are relative in nature and depend largely upon a speaker’s viewpoint are expressions of opinion. Speech that does not contain a provable false factual connotation is also protected opinion. Whether an alleged defamatory statement is one of fact or of opinion is a question of law to be resolved by the trial court. Tharpe v. Saunders, 285 Va. 476, 481 (2013).

19. In determining whether the words and statements complained of are reasonably capable of the meaning ascribed to them by innuendo, the meaning of the alleged defamatory language cannot be extended beyond its ordinary and common acceptance. Innuendo may show how the words used are defamatory, and how they relate to the plaintiff, but **innuendo cannot be used to introduce new matter or to extend the meaning of the words used**, or make that certain which is in fact uncertain. Webb v. Virginian-Pilot Media Cos., 287 Va. 84, 89-90 (2014). To determine whether a statement can be reasonably understood as stating or implying actual facts and whether they are reasonably capable of defamatory meaning, the words must be examined in context. Schaecher; ___ Va at ___; 2015 Va. LEXIS 88 at *8.

20. The Court must act as a gatekeeper in determining the threshold matter as to whether a statement is reasonably capable of defamatory meaning before allowing the matter to be presented to a finder of fact. Id. at *9; Webb, 287 Va. at 90.

21. “In considering the type of speech that falls beyond that which can support a defamation action, the United States Supreme Court has recognized that **speakers may use language that is insulting, offensive, or otherwise inappropriate, but constitutes no more**

than 'rhetorical hyperbole.' Examples include referring to the negotiating position of a real estate developer as 'blackmail,' Greenbelt Coop. Publ'g Ass'n, Inc. v. Bresler, 398 U.S. 6, 13-14, 26 L. Ed. 2d 6, 90 S. Ct. 1537 (1970), defining a labor union 'scab' to be a 'traitor,' Letter Carriers v. Austin, 418 U.S. 264, 284-86, 94 S. Ct. 2770, 41 L. Ed. 2d 745 (1974), or publishing a parody of an advertisement referring to a public figure, Hustler Magazine, Inc. v. Falwell, 485 U.S. 46, 50, 99 L. Ed. 2d 41, 108 S. Ct. 876 (1988)." Yeagle v. Collegiate Times, 255 Va. 293, 295-296 (1998). See also Old Dominion Branch No. 496 v. Austin, 418 U.S. 264, 284 (1974) ("[T]o use loose language or undefined slogans that are part of the conventional give-and-take in our economic and political controversies -- like 'unfair' or 'fascist' -- is not to falsify facts." (quoting Cafeteria Employees Local 302 v. Angelos, 320 U.S. 293, 295 (1943) (emphasis added))).

Argument

22. The statements alleged to be defamatory in this case fall within six subjects: (1) statements concerning assault or physical contact between McKenney and Cox, or between McKenney and Cox's phone; (2) statements about Cox being threatened with a citation for being a pedestrian; (3) statements about McKenney violating Cox's rights; (4) statements that McKenney knew the phone was not a gun, or relating to the use of the phone to record the incident; (5) statements about text messages of McKenney; and (6) other editorialized statements about the incident and the video. Each of these categories are addressed in turn.

I. Assault or physical contact between McKenney and Cox, or between McKenney and Cox's phone.

23. The first category includes the following statements:

- "had her hands all over me trying to prevent me from recording her"

- “literally attacks” . . . “she doesn’t leave any bruises or anything like that as far as I know but she places her hands on me quite a bit”
- “molests . . . trying to grab”
- “had her hands all over”
- “ended up coming after me and putting her hands on me um and some people classify that as assault uh trying to get uh trying to prevent me from filming.”
- “grabbed my cell my cell phone that was leaning on my car and turned it upside down facing down so it would not record her vehicle any longer.”
- “actually started swatting toward my phone um and making contact with me because she didn’t want me recording her.”
- “went so far to grab my cell phone from the from the spoiler and turn it face down so it would stop recording her.”
- “technically assaulted me several times after I got out of the car cause she didn’t want me to record her.”
- “didn’t like me video recording her, so she literally tried to chase me around the vehicle um tried, and like swatting at me, making contact with me and my phone”.
- “pretty much assaulted”

24. **These statements are substantially true.** After ordering Cox out of the vehicle, McKenney abruptly and in the middle of the sentence grabbed Cox and his phone in an apparent attempt to pull the phone from his hands to stop him from recording. She then ordered Cox to the rear of the vehicle, where she frisked him—literally running her hands over substantial areas of his body. She then attempted to block the lens of the camera, and then appeared to try to grab for it twice more, making contact with Cox, over Cox’s repeated pleas not to touch him. During the course of this conduct, McKenney and Cox moved from the driver’s door, to and along the rear of the car, up the passenger side of the car, and back to the rear of the car, with Cox generally walking backwards and McKenney advancing toward him—i.e., “literally . . . chas[ing] me

around the vehicle.” Finally, several minutes after the phone was at rest on the rear spoiler—where McKenney had instructed Cox to place it knowing that Cox was trying to record the incident, and where McKenney said it was “fine” and “great”—McKenney purposefully turned the phone face down so the lens of the camera was skyward. She later indicates that she knew she was being recorded and did not want to end up on YouTube.

25. This course of conduct is fairly construed as several “assaults” on Cox by McKenney and McKenney’s attempts to prevent Cox from recording her. Even by the legal definition, this conduct intimating an imminent harmful or offensive contact would constitute assault.² Simms v. Ruby Tuesday, Inc., 281 Va. 114, 125 (2011). McKenney’s initial abrupt, unprovoked, and forcible physical contact with Cox, moreover, is fairly characterized as an “attack,” albeit brief and with only mild violence, and Cox expressly acknowledges McKenney did not leave bruises. McKenney persisted in her attempts to dispossess Cox of the phone for the duration of the detention, and she intentionally turned the phone over as she walked back to her car so that it would not record her, after she previously claimed that it was “fine” and “great” for him to leave the phone in that position to record the detention. This interfered with his right to the phone and specifically his right to use that phone to record evidence of the traffic stop.³

26. Even the statement that McKenney “molest[ed]” Cox by “trying to grab his cell phone” is substantially true. “Molest” is an English word that means persistent annoyance or disturbance, not simply unconsented sexual contact (cf. Merriam-Webster online dictionary,

² Even assuming arguendo that McKenney would be immune from liability for her conduct, this defensive immunity does not negate the fact that the conduct constitutes assault.

³ See, e.g., Gericke v. Begin, 753 F.3d 1, 7 (1st Cir. 2014) (“[T]he Constitution protects the right of individuals to videotape police officers performing their duties in public.”); True Blue Auctions v. Foster, 528 Fed. Appx. 190, 192 (3d Cir. 2013); ACLU v. Alvarez, 679 F.3d 583, 597 (7th Cir. 2012).

<http://www.merriam-webster.com/dictionary/molest>).⁴ Cox clearly found the conduct of McKenney in grabbing at the cell phone, ordering him to put it down, and mischaracterizing it as a weapon or a gun to be persistently annoying and disturbing. He was clearly distraught by these efforts, saying at one point, "Please don't touch me. Please don't touch me. Please don't touch me." There is nothing defamatory in Cox expressing himself using the term "molest."

II. Being threatened with a citation for being a pedestrian.

27. The second category includes the following statements:

- "threatened . . . with a citation for being a pedestrian on the highway."
- "told me to get in my car or else she'd ticket me for being a pedestrian on the HIGHWAY!"
- "would issue . . . a citation for being a pedestrian on the highway"
- "threatened to cite . . . for being a pedestrian on the highway"
- "If you don't get in your car, I'm going to write you a ticket for being a pedestrian on the side of the highway."
- "threatened . . . a ticket for being a pedestrian on the highway if I didn't get in my car and leave."

28. **These statements are substantially true.** McKenney's precise words, delivered in a demanding and frustrated voice, were: "**You need to get in your car and go. Get in your car and go! Sir, now you're just being a pedestrian on the interstate. You need to go.**" The video shows Cox was not strolling down or into the highway. He had simply activated the camera and directed it towards the police, the camera McKenney had gone out of her way to turn face down on the car. There was no other basis, and no reason, to call him a pedestrian on the highway, except as a means of threatening him with further citations for this purported offense

⁴ Even if the McKenney would like to limit the meaning of "molest" artificially to sexual assault, this statement would constitute protected hyperbole. In the context of the statement, no one would actually believe that McKenney sexually assaulted Cox.

under Va. Code §§ 46.2-808(B) and -926 if he did not “Get in [his] car and go” without further videoing the officers. This was fairly clear threat, as Cox understood it to be.

III. McKenney violating Cox’s rights.

29. The sixth category includes the following statements:

- “violates . . . 4th Amendment Rights by trespassing against my property (My Phone)”
- Tags on the article “corrupt police”, “police abuse”, “police abuse power”, and “police caught lying”.
- “violated my rights”

30. **These statements are opinion, and as such, are not actionable.**⁵ In our legal system, any statement of law applied to facts or any interpretation of law short of a valid jury verdict or a finding of fact by a Court is an opinion: Court opinions, opinions of attorneys general, professional (or unprofessional) legal opinions. Similarly, too, the terms “corrupt police,” “police abuse,” “police abuse power” are informal opinions that officers were acting inconsistent with the law. See also Old Dominion Branch No. 496 v. Austin, 418 U.S. 264, 284 (1974) (“[T]o use loose language or undefined slogans that are part of the conventional give-and-take in our economic and political controversies -- like 'unfair' or 'fascist' -- is not to falsify facts.” (quoting Cafeteria Employees Local 302 v. Angelos, 320 U.S. 293, 295 (1943) (emphasis added))).

31. **Moreover, to the extent that these statements are not opinion, they are substantially true.** The Fourth Amendment protects Cox from “unreasonable searches and seizures.” In this case, McKenney abruptly and violently attempted to seize the phone on at least

⁵ Certainly if trained police officers have qualified immunity in legal and Constitutional “gray areas,” citizens exercising their First Amendment rights by opining about the legality or Constitutionality of the officers’ conduct entitled to substantially greater protection.

two occasions, and then intentionally turned the phone over so as to prevent it from recording, *after* representing to Cox that it was “fine” and “great” for him to leave the phone in that position so as to record the traffic stop. In particular, picking up the phone and placing in a position where it could not function as Cox intended constitutes a Fourth Amendment violation. This decision to pick up the phone and place in a position where it could not record the traffic stop, after McKenney stated that the phone was “fine” where it was, was an intentional attempt to obstruct Cox’s collection of evidence and spoliation of evidence. It further violates Cox’s First Amendment right to record police.⁶ Given these significant violations of her authority, it is fair to tag the video as depicting “corrupt police,” “police abuse,” “police abuse power.”

32. Finally, McKenney’s statements that the cell phone “could be a gun” or that she doesn’t know what it is, followed by her statements indicating that she knew she was being recorded and did not want to be on YouTube support the opinion that the Dashboard Video caught her in a lie. Similarly, her statements that she did not have a problem with him recording the traffic stop, followed by her deliberate action of turning the phone on its face so it could not record her, show an inconsistency between word and deed that can be fairly construed as a lie.

33. Finally, by presenting these statements in conjunction with the video of the incident, these statements constitute editorialized comments and an opinion about what the video depicts, statements that the viewer could accept or reject after viewing the video that was presented.

⁶ See, e.g., Gericke v. Begin, 753 F.3d 1, 7 (1st Cir. 2014) (“[T]he Constitution protects the right of individuals to videotape police officers performing their duties in public.”); True Blue Auctions v. Foster, 528 Fed. Appx. 190, 192 (3d Cir. 2013); ACLU v. Alvarez, 679 F.3d 583, 597 (7th Cir. 2012).

IV. McKenney knew the phone was not a gun, or relating to the use of the phone to record the incident.

34. The fifth category includes the following statements:

- “knew very well it wasn’t a weapon and simply did not want to be recorded”
- “knew it wasn’t a gun”
- “ended up admitted to her colleague that she knew it wasn’t a gun that she just didn’t want to be on youtube.”
- “ended up admitting to her colleagues during that traffic stop that she knew it wasn’t a cell pho excuse me knew it wasn’t a gun she just didn’t want to be on quote unquote youtube.”
- “admitted that she knew it wasn’t a cell phone, excuse me, she knew it wasn’t a ah firearm that I was holding although she continued to try to claim that it was, but she said to her colleagues she just did not want to be on youtube.”
- “admitted to her colleagues that she knew it wasn’t a gun, that she just didn’t want to be on youtube.”
- “knew it wasn’t a gun”

35. **These statements are substantially true, or opinion.** McKenney’s conduct belies any claim that she thought there was a meaningful weapon involved in this traffic detention. The common-sense tactics in detaining a person when a weapon is present involve the officer keeping her distance, waiting for backup, using defensive concealment, preparing to apply force if necessary, and trying to separate the perpetrator from his weapon. McKenney used none of these tactics through the first minute and ten seconds after the cars came to a stop. During that minute and ten seconds, she instead (a) exited her car and approached Cox, (b) opened his door, (c) leaned down in front of his open car door, (d) ordered him out of the car, (e) attempted to grab the cell phone, (f) ordered him to the rear of his car, (g) frisked Cox, allowing him to keep his license, cell phone, and keys, (h) asked for his license and registration, (i) ordered him to stand near his car, (j) asked for his license, (k) told Cox he had been making

furtive movement, while turning her attention away from Cox, (l) attempted to block the camera again, and (m) attempted to grab the camera again. She did all of this while staying within or nearly within arm's reach of Cox. She did all of this before she decided to call the cell phone a "weapon" or a "gun." At a few points during the interaction, she even calls the object a phone. She purposefully picks up the phone and puts it upside-down so that it would not record her. Her statements to the troopers later on acknowledge that Cox had been recording her. At no point did Cox make any threatening acts or gestures with the phone. It is clear that McKenney knew the cell phone was a cell phone being used to record her, and it was not a disguised weapon or gun.

V. Text messages of McKenney.

36. The sixth category includes the following statements:

- "During this stop, Trooper McKenney exchanged several text messages with other officers in her department."
- "something like I know where that guy lives I'm gonna keep an eye something like I'm gonna keep an eye on him and if he doesn't correct these problems I'm gonna ah I'm gonna ticket him every 24 hours, or something like."

37. **These statements are true or substantially true.** As stated, Cox received through FOIA copies of text messages sent or received by McKenney related to Cox's detention. These text messages began at "15:46:11." A note after the first five text messages states "****Call Closed at 16:11:07 – all other text messages listed here occurred after the call." There are five text messages from prior to 4:11 p.m. that were sent or received by McKenney prior to her closing out the traffic stop. Moreover, in the next three minutes after 4:11 p.m., another seven text messages were exchanged. It appears other officers exchanged another five messages while the detention was ongoing.

38. At 16:35:27, apparently in response to a text message stating “NEED TO LET THE JUDGE KNOW ABOUT THAT GUY,” McKenney sent a text message stating, “YEAH I AM GONNA GIVE ALL DETAILS AND HE LIVES ON THE OTHER SIDE OF 360 FROM ME [¶] SO YOU CAN BET THAT I WILL HAVE NO [¶] PROBLEM STOPPING HIM AGAIN IF HE DOESN’T CORRECT IT...EVERY 24 HOURS HE CAN GET [¶] A TICKET FOR IT.” (Emphasis added). This is substantially consistent with Cox’s paraphrase of the text.

VI. Other editorialized statements about the incident and the video.

39. The final category includes the following statements:

- “Virginia State Trooper McKenney is CRAZY—Memorial Day Weekend Traffic Stop.”
- “to extort more money”
- “knew it wasn’t a gun, she just wanted to violate my rights.”
- “she places her hands on me quite a bit trying to steal my property, my cell phone.”

40. **These statements are not actionable, as they are opinion or rhetorical hyperbole used in political speech.** Stating that someone is “CRAZY” may be insulting or offensive, but it is not reasonably understood to convey a representation of fact. It is commonly used as a negative label for someone’s unusual conduct without implying any specific facts. See Old Dominion Branch No. 496 v. Austin, 418 U.S. 264, 284 (1974) (“[T]o use loose language or undefined slogans that are part of the conventional give-and-take in our economic and political controversies -- like ‘unfair’ or ‘fascist’ -- is not to falsify facts.” (quoting Cafeteria Employees Local 302 v. Angelos, 320 U.S. 293, 295 (1943))).

41. Similarly, stating that traffic citations are a means “to extort more money” from a citizen is rhetorical hyperbole. Here, the context of the statement makes that clear:

At approximately the 20:09 mark Trooper McKenney continues to try and find reasons to extort more money from me (for doing no harm to anyone life, liberty or property).

The statement refers to a particular timestamp of the Dashboard Video, denoting a point at which McKenney suggests that Cox's muffler "sounded loud" and may be illegal. Read in context, Cox is characterizing the fines charged for victimless traffic offenses (like not having a front license plate, having an expired inspection tag, or having a loud muffler) as state-sanctioned extortion of citizens. This was not an insult to McKenney. It was protected criticism of the law.

42. Moreover, both of these statements were published on a post with the Dashboard Video of the incident. They are properly viewed as editorialized opinions concerning what the video depicts, opinions the viewer can accept or reject. Given the entire context, including the video, no person could reasonably draw the inference that Cox was intending to suggest that McKenney was literally "CRAZY" or that she was engaged in illegal extortion.

43. Regarding the statement that McKenney wanted to violate Cox's rights, McKenney's conduct belies her claim that she thought she might be dealing with a gun or weapon disguised as a cell phone. While frisking Cox and asking for his license and registration, she did not order him to put the phone down. She did not seek cover from this "gun." She instead closed with Mr. Cox, remained within arm's reach of Cox for most of the time he had the phone in his possession. She knew she was being filmed and acknowledged that she did not want to show up on YouTube. Given this evidence that McKenney was using pretext to separate Cox from his cell phone, Cox's opinion that she "just wanted to violate my rights" is well founded. Multiple Federal Circuits have recognized the Constitutional right to record police officers.⁷

⁷ See, e.g., Gericke v. Begin, 753 F.3d 1, 7 (1st Cir. 2014) ("[T]he Constitution protects the right of individuals to videotape police officers performing their duties in public."); True Blue Auctions v. Foster, 528 Fed. Appx. 190, 192 (3d Cir. 2013); ACLU v. Alvarez, 679 F.3d 583, 597 (7th Cir. 2012). Even if McKenney could impose reasonable restrictions on recording

Moreover, McKenney's decision to surreptitiously pick up the phone and turn it facedown while Cox was out of view evidences a desire to prevent the recording for reasons other than legitimate law enforcement purposes. There was no lawful basis at that point to prevent Cox's phone from remaining as it was, and moving the phone interfered with his right to collect evidence and his First and Fourth Amendment rights.⁸ McKenney knew she was being filmed, did not want to be filmed, and did not move the phone by accident. She wanted to and did move the phone in violation of Cox's rights.

44. Similarly, the statement that McKenney was trying to "steal" Cox's cell phone is rhetorical hyperbole. McKenney forcibly grabbed for Cox's cell phone in a way that could have caused it to fall and break. She tried to block the lens to prevent it from recording. She disingenuously claimed that she did not know what it was, that it could be a weapon, and that it could be a gun, in order to obstruct his efforts to video record her conduct. She ordered Cox to place the phone on the trunk of his car and to leave it there throughout the detention, saying it was "fine" and "great" on the spoiler recording the interaction. She then purposefully flipped it face down so that it would record the sky, instead of her and her car—conduct that constitutes spoliation of evidence and a First and Fourth Amendment violation. She then ordered him to "Get in [his] car and go" at the risk of being treated as a "pedestrian" on the highway when he activated the video recorder at the conclusion of her detention of him. This course of conduct—depriving Cox of the possession and use of his cell phone when he expressly and obviously desired to use it to record the interaction, preventing the phone from recording the interaction

the traffic stop, her use of pretextual reasons support Cox's opinion that this was a violation of his rights.

⁸ Preventing the phone from recording the interaction also likely violates Cox's Fifth and Fourteenth Amendment due process rights, in as much as it obstructed his efforts to collect evidence that may be used at trial. It would constitute a taking of his property in violation of the Fifth Amendment, inasmuch as the video he was recording was property.

without lawful justification, and then threatening Cox with citations for restarting the recording at the end of the traffic stop, all because McKenney did not want to appear on YouTube—justifies the hyperbolic rhetoric that she was “stealing” his cell phone. This was not an accusation that McKenney committed common law or statutory theft or embezzlement, but rather a legitimate way to make the point that he did not agree with McKenney efforts to prevent him from recording her and the interaction.

Conclusion

45. Cox’s publication of his accounts of the traffic stop, as well as actual videos of the traffic stop, has apparently upset McKenney. But her spurious allegations of damages and emotional distress does not change facts, and it does not narrow the protections of the First Amendment. McKenney may not like that her questionable conduct during the traffic stop was exposed to the public for judgment, framed with Cox’s perspective, but that does not make the exposé defamatory. Cox may have expressed unpopular views and advocated for conduct that this Court may appreciate, but that is Nathan Cox’s constitutionally protected birthright as a citizen of this great nation. This suit must be dismissed. Cox’s conduction was not defamatory, and this suit is nothing more than a Virginia State Trooper trying to silence political dissent. Allowing this suit to proceed will chill his right to free speech and the right of every citizen of this country concerned about abuses of police power to safely participate in this political discussion. Moreover, it is a waste of judicial resources given the clear evidence that the factual statements made were, in fact, substantially true. This suit should never have been brought in the first place.

Wherefore, Plaintiff Nathan Cox asks this Court to grant this plea in bar, and dismiss this case with prejudice, and all such further and additional relief as may be appropriate.

Respectfully Submitted,
Nathan R. Cox

By Counsel

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CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing was delivered facsimile, with Exhibit A being delivered via First Class US Mail to counsel for Plaintiff, this 1 day of July, 2015, to:

D. Hayden Fisher, Esq. VSB #
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Richmond, Virginia 23221-0321
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Counsel for Plaintiff

VIRGINIA:

IN THE CIRCUIT COURT FOR THE COUNTY OF HANOVER

M. H. McKENNEY,
Plaintiff,

v.

Case No. CL15-1442

NATHAN COX,
Defendant.

Plea in Bar to Truth of All Actionable Statements
EXHIBIT B
A Summary of the Videos of McKenney-Cox Traffic Stop

McKenney, driving in the left lane of a four-lane highway overtakes and passes Cox's vehicle as Cox drives in the lane to McKenney's right. (DV – 0:05 to 0:12). Several seconds later, McKenney slows and allows Cox to overtake her. By this time, Cox is two lanes to McKenney's right. (DV – 0:14 to 0:22). McKenney crosses the two lanes and follows Cox for approximately twenty-five seconds. A "Don't Tread On Me" and other bumper stickers are visible on the back of Cox's car. McKenney says to herself, "What are you doing up there that you are not pulling over?" (DV – 0:22 to 0:50). Then as Cox moves to the shoulder of the road, McKenney says on the video "Whatever you are doing, there's something in the console." Cox slows to a stop. (DV – 0:50 to 1:16).

As the vehicles stop, McKenney immediately exits her vehicle and approaches Cox's car. (DV – 1:16 to 1:22). McKenney immediately begins to direct Cox to get out of the car and opens Cox's car door. (DV – 1:22 to 1:27). McKenney asks, "What have you been up here hiding?" as she leans down in front of the open door of the vehicle. Cox responds immediately, "I'm not hiding anything." McKenney immediately states, "Okay, what are you doing up here. You're doing something—" Cox then states in surprise, "Ma'am, what are you doing?" McKenney

states, "I want you to get out of this car because I do not know what you have in this car. Okay. If you have a gun or something I don't want—" (DV – 1:27 to 1:38).

At that moment, Cox activates his cell phone video recorder, which he holds in plain view in his hand. McKenney's tone immediately changes.

McKenney: "Get out of the car, please."

Cox: "Why are you asking me to get out of my car?"

McKenney: "Because you've been doing something—"

Cox: "I was getting my wallet out of my center console."

McKenney: "Step out."

Cox (as he rotates his legs to step onto the ground and the Plaintiff takes a step back): "Are you telling me that you have probable cause to search my car." (He completes exiting the vehicle and is standing with his back along the rear driver's side door)

McKenney: "I'm not searching your car, sir. I am asking you to step out of the car," pointing towards the rear of the car as Defendant completes exiting the vehicle and is alongside of the rear driver's side door. The camera on the cellphone is right in front of Plaintiff's face, "because you have something in there—" (DV – 1:38 to 1:54; CPV1 - 0:02 to 0:18).

McKenney then looks at the phone, and abruptly (in the middle of her sentence and without direction or warning) grabs Cox's left wrist with her right hand and places her left hand on Cox's right hand and over the lens of the cell phone's camera, obstructing the video. (DV – 1:54; CPV1 - 0:18).

Cox rotates his body and steps backwards towards the rear of his vehicle, lifting the phone up and away from her grasp, saying, "No, ma'am. You are not taking my phone. You are not taking my phone." McKenney states, "Step over there," pointing with both hands at the rear corner of the car on the passenger side. Cox complies, as McKenney moves along with him. McKenney states, "Put your-- I'm going to pat you down." Cox withdraws his wallet from his

back pocket, holding it and his car keys in this left hand and cell phone in his right hand with his arms fully extended and separated over his head, with his back to McKenney, as McKenney frisks Cox at the rear of Cox's car. Cox states, "Fine. I – I am as peaceful as you can—I am as peaceful as they come." (DV – 1:54 to 2:07; CPV1 - 0:18 to 0:30).

McKenney steps back after completing the frisk and states, "I need your driver's license and your registration." Cox rotates to face McKenney, standing behind his driver's side rear bumper of car and says, "The registration is in my car." McKenney then states, "I need you to step back here," pointing near the passenger's side headlight of her vehicle. Cox complies. McKenney states, "I need your driver's license," holding her hand out, palm up. (DV – 2:07 to 2:13; CPV1 - 0:30 to 0:37).

Cox states, "I don't understand why I am being treated like this. Please can you--" McKenney states, "Because you were up there," turning her head and body away from Cox and pointing back toward his car, "making furtive movements in the vehicle. Okay." She then places her left hand up, palm out, in front of the lens of the camera again. (DV – 2:13 to 2:20; CPV1 - 0:37 to 0:44). As Cox moves the phone to the left to free the lens from this purposeful obstruction, she moves her hand in the same direction and at the same height as the phone. Cox states, "You're recording me. You're recording me." He steps away from the police vehicle and towards the rear of his vehicle. **She grabs again at the cell phone.** (DV – 2:20 to 2:22; CPV1 - 0:44 to 0:46).

McKenney states, "I—You know what--" Cox states, "Ma'am, please don't touch me. I swear, I just won a lawsuit against VCU Police." He continues to back up toward the rear of his vehicle, with his forearms straight up near his shoulders as the Plaintiff continues moving towards him. He says, "Please don't touch me. Please don't touch me. Please don't touch me." as

the Plaintiff again grabs at his arm. He raises his arms over his head again as he continues to try to separate himself from McKenney's advances by backing up. (DV – 2:22 to 2:32; CPV1 - 0:46 to 0:56).

McKenney states, "Sir, I don't know what that is," pointing directly at the phone. Cox immediately states, "It's a cell phone. It's recording you," as McKenney says, "It could be a gun." (This comes exactly 41 seconds after McKenney had grabbed at the phone when it was at eye level before her face, and less than 30 seconds after McKenney frisked Cox.) (DV – 2:32 to 2:35; CPV1 - 0:56 to 0:59). Cox continues to state, "It's recording you. No. It's a cell phone. It's recording you. I want you to leave me alone." Meanwhile McKenney states, "It could be a gun. I want you to set it down. Sir, set it down." Cox moves back towards the rear of his vehicle, saying, "I will grab my registration." McKenney states, "Set it down." Cox states, "Okay, I will set it down. Here." He begins to set the phone down, propped up on the trunk of his car. McKenney states, "That's fine. That's fine." Cox states, "Now it is recording everybody." McKenney states, "That's great. That's great. I don't want you to touch it. Okay?" (DV – 2:35 to 2:53; CPV1 - 0:59 to 1:17).

Cox asks, "Why?" McKenney states, "Set your keys down." Cox complies and states, "I tell you what, I have a right to record you." McKenney states, with dramatic gestures at the dashboard camera, "You can. I don't have a problem with it. I have a camera too." Cox continues to back up, moving from the passenger side toward the driver's side rear taillight of his vehicle. "I'm going to grab my registration." McKenney states, "No, you're going to stand right over here," pointing in the direction of the passenger side headlight of her vehicle. Cox states, "You're not going into my car." McKenney states something inaudible, and Cox states, "How am I going to get my registration?" McKenney states, "Stand there," pointing toward the

passenger side taillight of Cox's vehicle. Cox complies and states, "Can you tell me why there are twenty State Troopers within a quarter mile here?" He picks up his wallet and retrieves his driver's license. He continues, "There's three of them back there. There are two of them here." McKenney responds, "Because there are a lot of cars out here. I need your driver's license. You put your wallet—No, don't put it back in your—Just set it over there," indicating the truck of the car. She then points him again back toward the passenger side headlight of her vehicle. **(DV – 2:53 to 3:21; CPV1 – 1:17 to 1:45).**

Cox picks up his cell phone and moves back to the headlight as directed. McKenney states emphatically: "Sir, set it down. Set it—set it down. Set it down." Cox states, "You can clearly see that it is a cell phone. You can clearly see that—I want to see your supervisor." McKenney states, "If you can record it, fine. Set it down." Cox complied, propping the phone against the spoiler. McKenney continues, "You can record all you want, but I don't want something in your hands that I don't know what it is." Cox states, "You can see that is not a weapon. That's not a weapon." McKenney states, "Stand right there," pointing near the passenger headlight of her car. "Stand right there." Cox complies, stating, "I am a United States Army veteran. I signed up for duty. This is ridiculous. I am just [inaudible], trying to get to work. Why am I being treated like this?" **(DV – 3:21 to 3:47; CPV1 – 1:45 to 2:11).**

McKenney then goes back to her car, calling the traffic stop in. Cox remains outside and to the rear of his car, adjusting the camera and commenting about the nearby police presence. At one point he waves at passing traffic and says, "Help!" **(DV – 3:47 to 5:36; CPV1 – 2:11 to 4:00).** McKenney gets out of the car and says, "Sir, you're going to cause an accident." She then directs him to get his registration from inside his car, and he complies. She then directs him to stand at the front of his vehicle. **(DV – 5:36 to 6:00; CPV1 – 4:00 to 4:24).**

He states, "I want my phone." McKenney says, "Sir." Cox reaches back for it and picks it up, holding it in at to the side of his body at arm's length, away from McKenney. Cox says, "I have right to record you, ma'am." McKenney says, "**Put the phone down**, I am not going to keep telling you that." Cox complies, and says, "What are you going to charge me with, ma'am?" McKenney states, pointing at the phone, "I don't know what that is." Cox states, "That is a cell phone. You can see that." McKenney states, "It could be a weapon." Cox states, "Are you kidding me? You're the one with the gun. You are the one with the gun." McKenney asks, "Do you have a gun? Do you have a gun?" Cox states, "No, I don't. It's not on me." (DV – 6:00 to 6:18; CPV1 – 4:24 to 4:42).

McKenney states, "Okay. Up here. Can I show you why I pulled you over?" After both walk to the front of the vehicle, McKenney states, "You do not have a front license plate mounted to the vehicle. Correct?" Cox admitted that someone broke it off of his car in the Walmart parking lot the week before. McKenney also indicates that his tags were expired, and Cox admits that they are. The parties continue their exchange without incident. McKenney continues to refuse Cox's requests to allow him to retrieve his phone. (DV – 6:18 to 9:00; CPV1 – 4:42 to 7:24).

McKenney then walked back to her car, while Cox remains at the front of his car. The Dashboard Video shows that as she passed the cell phone propped up on the trunk of Cox's car, she reached across the trunk of the car to turn it so that lens was facing the sky. (DV – 9:00 to 9:08; CPV1 – 7:24 to 7:32).

The Dashboard Camera subsequently records a dialogue with a male Trooper:

Male Trooper: "What's his malfunction."

McKenney: "He, um-- well he was doing something. And, you know, I'm thinking—"

Male Trooper: "I mean--**Oh, he's on CopBlock.org.**"

McKenney: "Well, so I'm going to be on it, because he was finding something or doing something while he was pulling over, so it took him a long time to pull over, so I just want him to get out of his car. I don't want to search his car. I don't want anything like that, but I don't—if he gets a gun I don't want to come back up there and have—

Male Trooper: "No. That's fine. That's fine"

McKenney: "So I asked him to get out of his car and he **puts his camera in my face.**"

Male Trooper: "Camera works fine, and everything?"

McKenney: "Yeah, but it's just a matter of him, you know."

Male Trooper: "Yeah, it's no problem. We got you. You don't worry about that."

McKenney: "Yeah it's just that, I don't want myself on any kind of YouTube or whatever." (DV – 10:12 to 10:48).

The Dashboard Camera also records a dialogue with another male Trooper:

Male Trooper: "Just so you know, he's from the online CopBlock."

McKenney: "I know, so **I'm going to be on there because—**"

Male Trooper: "We're all going to be on it."

McKenney: "He was video taping. And I all wanted was the fact that he was doing this and as he was pulling over, and I don't know what he was doing—"

Male Trooper: "Just document everything down on your summons. Which supervisor is coming?"

McKenney: "Well he's not coming. Milliner said to call him."

Male Trooper: "I will call him."

McKenney: "Yeah, if you can call him. Just, just let him know, all I wanted was to get—just to get him to step out of his car because I didn't know what he was hiding. I didn't ask to search his car, but I did ask as soon as I walked up for him to step out of the car, because I didn't know what he was doing

up there. **And then he keeps, you know, my cell phone, 'I want my cell phone, I want my cell phone,' and putting it in my face. Well I don't want his cell phone in my face, and it could be a gun. You know, it could be disguised to be a cell phone, and it could be a weapon. So I kept telling him to put it down, and he still want to--"** (DV – 11:18 to 12:09).

As the traffic stop concludes after nearly a half-hour, with McKenney issuing citations for the license plate and the inspection sticker, McKenney moves back to her vehicle. Cox is finally permitted to retrieve his phone from the trunk of his car. He quickly activates the video again. McKenney states, **"You need to get in your car and go. Get in your car and go! Sir, now you're just being a pedestrian on the interstate.¹ You need to go."** (DV – 27:05 to 27:54; CPV2 – 0:01 to 0:13).

¹ Cf. Va. Code §§ 46.2-926, -808(B)..



Virginia State Trooper McKenney is CRAZY - Memorial Day Weekend Traffic Stop



Virginia Cop Block

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Published on May 26, 2012

I passed 3 state troopers just 50 meters from the Pole Green Road Exit on 295. They were conducting a traffic stop, funny thing was, 2 of them were conducting the stop, while a third was on the opposite shoulder. As I drove by one of the cops stared me, or my vehicle down. The next thing I knew one of those cops came up fast behind me while I was still on the phone. She moved over the adjacent lane and proceeded to pass me, just enough to see my State Inspection sticker which expired March 1.

Then she pulled behind me and blue lighted me.

She came up to my door, opened the door and aggressively asked to get out of the car. After I complied and stepped out of my car, she had her hands all over me trying to prevent me from recording her. After I signed the tickets she claimed my muffler sounded loud (it's a stock muffler on a 08 civic Si). As I tried to capture some video of all the cruisers that came to the scene, she threatened me with a citation for being a "pedestrian on the highway" you can see that in the next video.

3 more cops came to the scene. The entire stop was not caught on MY phone because one of the male cops turned my phone upside down when they noticed it filming. I'm hoping to get the dashboard cam via FOIA after the criminal charges are dealt with.

This happened Memorial Day Weekend

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Top comments

50flamingbottles 2 months ago
You'd think cops could come up with better lies, as much practice as they've had. Saying you can't tell the difference between a phone and a weapon is an admission that you're not capable of performing the duties of your job. She shouldn't even be allowed to carry a gun.

Reply · 26
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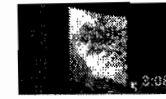
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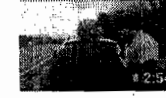
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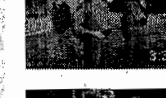
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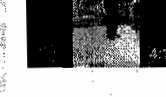
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


POLICE STATE - Cop Caught On Tape Threatening To Make Up
by UrbanWarfareChannel




 richard cranlum 20 hours ago
 +danielle d AND IN THIS CASE THE WORD WOULD BE " WHOLE" OR "ENTIRE " NOT " HOLE " AS IN A HOLE IN THE GROUND OR THE HOLE THAT IS SPEWING GARBAGE LIKE THE PIE HOLE ON YOUR FACE
 Reply ·  




 Silver Diamond 5 months ago
 Why you people refuse to lock your doors when approached by a cop is beyond me.
 Reply · 21  
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


 dlhubby chubby 2 weeks ago
 +Silver Diamond don't want your window broke?
 Reply ·  




 AustinPetDetective 2 weeks ago
 +dlhubby chubby If they did I would sue them for excessive and unreasonable use of force, and as well as will damage to my vehicle. They is no law that states you have to roll down your window at a traffic stop that is at your discretion.
 Reply ·  




 Marcus Amyotte 3 weeks ago
 You ever heard of editing? Try it once.
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


 Bud Tender 1 month ago
 Ron Paul sticker did him in . They look for those.
 Reply · 3  




 Scipio 3 days ago
 ROFL, and she wants to sue YOU?! LMFAO.
 Reply · 2  


 Jamal Chambers 1 month ago
 Yeah..this lady was crazy. She definately shouldnt be wearing a badge.
 Reply · 4  


 Clint.JCL 1 day ago
 She's a cunt. Let's hope she gets cancer way earlier than most people.
 Reply · 1  

 sean folley 3 weeks ago
 e wants to suck your dick
 Reply ·  


 George Turner 3 weeks ago
 what an ugly dike bitch, damn would some drunk motorist run her ass over already?
 Reply ·  

 Frank Barnes 5 days ago
 this worthless stupid retarded dumb shit cunt cop must be beaten and raped thousands of times by tough ass hardcore prison inmates all the world, i was wishing somebody would have came outta the woods and placed a pound of C-4 under her cop car, this crooked nazi thug is not fit to wear a badge but she is fit to be pushed out into on coming traffic and run the hell over
 Reply · 1  


 hang3xc1 4 days ago
 They HAVE to STOP with the whole "I don't know what that is" BULLSHIT, along with the equally RETARDED "It could be a weapon"

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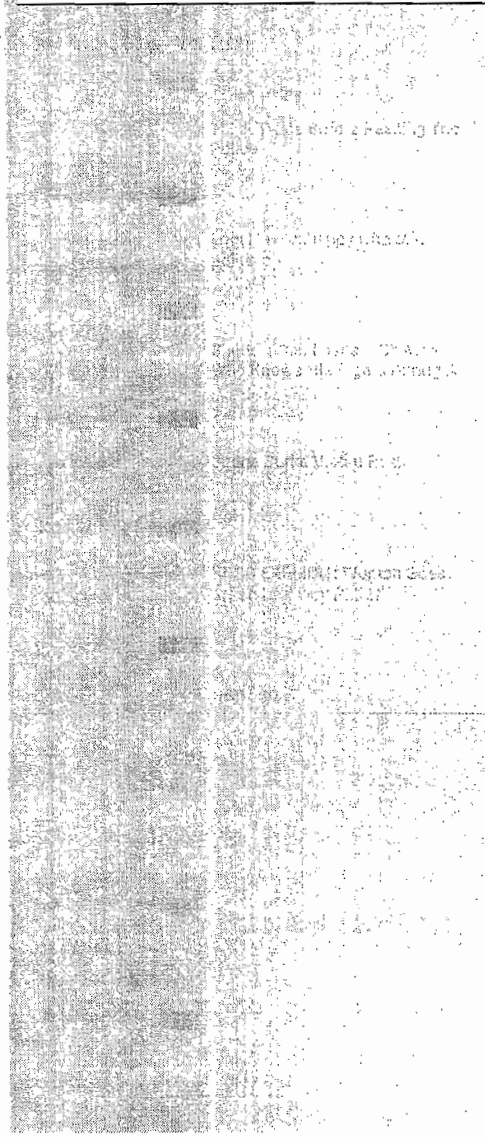
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by FreeKeene

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by KRCG 13

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Reply · 1



Jamal Chambers · 1 month ago

We have an Agency Police Officer at my job...Police Departments Nation Wide share information and tactics. The, "Put the device down...it could be a makeshift weapon", is the new tactic. They play ignorant to commin sense. Of course she knew an Iphone wasnt a weapon.

Reply · 1



Nick Carver · 2 weeks ago

Gotta lock those doors dude.

Reply · 1



Kapulaites · 3 weeks ago

Reinventing the phrase" dumb bitch"

Reply · 1



Michael Myers · 1 month ago (edited)

Click "view more" to witness angry stalker raging.

Reply · 1

View all 19 replies



Michael Myers · 1 month ago

+dirtyb glass I'm already embarrassed .

Reply · 1



Michael Myers · 1 month ago

+dirtyb glass lmao did you really put your shit on private aaaaahahahahahaha my work here is done. thanks for the laughs(i just discovered your videos ~10 minutes ago and I gotta say that's a really cute t-shirt. I remember in 7th grade tees with bongos on them were all the rage). I will say you're not as old as I though you were, figured you were 60 but you look like 40-45. nice stick n poke prison tats tho, I'd rather be stuck with my I.Q. of 7 than have that ugly shit on my hand/arm forever nigga lmao

Reply · 1



Arak Seepoom · 1 day ago

why aren't you suing this idiot cop?

Reply · 1



kelvin espinal · 4 weeks ago

Don't believe that cops are working on your side this people are trained to look for a way to ticket you in anyway possible there are not there to help you period. 80% of cops dont give a fuck and 20% are the only few that don't want to become like their superior.

Reply · 1



Chris J · 1 day ago

Plain and simple. File a lawsuit! Assault, and almost strong armed robbery. Get this idiot off the streets before she murders someone! If the idiot can't distinguish that it is a cell phone, and she does say it, then she should not ever hold a law enforcement position anywhere in the US.

Reply · 1



grizz tough · 1 week ago

welcome to obumers ameriKa and shrillaries Nazi state

Reply · 1



ibez07 · 3 weeks ago

never put ur phone down

Reply · 1

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Virginia Cop Block



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Virginia Cop Block | August 31, 2012

104 Comments

FOIA Request Concerning Memorial Day Weekend Traffic Stop with Trooper McKenney - PUBLISHED

Written by: Nathan Cox
Edited by Meg McLain & Chris Staples

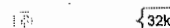
On Memorial Day weekend, May 26th, I was coming home from a side-job I had picked up. Quickly noticed that Interstate 295 was being HEAVILY Policed by State Troopers. Here is my initial [CELL PHONE Video](#):

"I passed 3 state troopers just 50 meters from the Pole Green Road Exit on 295. They were conducting a traffic stop, funny thing was, 2 of them were conducting the stop, while a third was on the opposite shoulder. As I drove by one of the cops stared me, or my vehicle down. The next thing I knew one of those cops came up fast behind me while I was still on the phone. She moved over the adjacent lane and proceeded to pass me, just enough to see my State Inspection sticker which expired March 1. Then she pulled behind me and blue lighted me. She came up to my door, opened the door and aggressively asked to get out of the car. After I complied and stepped out of my car, she had her hands all over me trying to prevent me from recording her. After I signed the tickets she claimed my muffler sounded loud (it's a stock muffler on a 08 civic Si). As I tried to capture some video of all the cruisers that came to the scene, she threatened me with a citation for being a "pedestrian on the highway" you can see that in the next video. 3 more cops came to the scene. The entire stop was not caught on MY phone because one of the male cops turned my phone upside down when they noticed it filming. I'm hoping to get the dashboard cam via FOIA after the criminal charges are dealt with."

After going to court about this, I was able to get the inspection sticker citation dismissed but was found "guilty" on the charge "Failure to Display Front License Plate". Following these court proceedings over these charges, I filed an official complaint with the Virginia State Police concerning the aggressive nature of State Trooper McKenney. I also filed a Freedom Of Information Act Request in hopes to obtain Trooper McKenney's Dashboard Camera, as well as any other communication about me via, phone, text, email and radio. Also, I tried to recover previous complaints Trooper McKenney may have received, but was denied that request.

Approximately August 22nd I received the FOIA Request Package from the Virginia State Police. After reviewing the information we received, being the Dashboard Camera and text messages that was sent to/received from McKenney validated my account of what happened and provides enough evidence that could make a case for a 4th Amendment Rights Violation. **If you have not yet seen MY video of the traffic stop yet, you can**

Like us on Facebook!



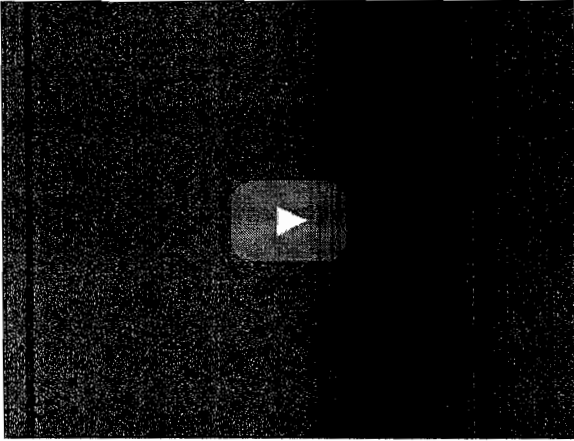
Join the Conversation!

Get connected at the Virginia CopBlock Forum



[watch the video here](#) and you will notice at the 7:27 mark someone violates my 4th Amendment Rights by trespassing against my property (**My Phone**). As well as a [short clip here](#) of trying to get footage of the cop cars after recovering my phone, she then threatened to cite me for "being a pedestrian on a highway".

What you've been waiting for – State Trooper McKenney's Dashboard Camera:



Points of Interest/ Concern:

- **At approximately the 1:20 mark** Trooper McKenney approaches my car and proceeds to open my door; within a second or two of her opening my door, "[Driver Perspective](#)".
- **At approximately the 1:50 mark** Trooper McKenney begins to prevent me from recording her by trying to grab my smart-phone, claims it could be a gun at the 2:30 mark.
- **At approximately 2:50 mark** in the video I comply and put my phone while recording against the spoiler on my car point towards the front of her car, while telling her I am still recording, she replies "That's fine."
- **At approximately the 3:22 mark**, she continues her refusal of me recording her all while saying it could be a gun, and she has no problem recording her saying "You can record all you want".

***NOTE* The TIME of 3:36pm was written on both citations – noted for purposes of Text Message time-frame. The Text Message that Trooper McKenney sent/ received begin to play on the bottom of the screen in chronological order beginning around the 3:48 minute mark in the video. (All text messages appear to be sent/ received after completion of the traffic stop)**

- **At approximately the 5:02 mark** she is alerted by her computer that I have a concealed weapons permit.
- **At approximately the 6:05 mark** she finally admits it's a phone (but then says she doesn't know what it is), but refuses to let me record her. I point out she is the one with a gun on her hip and that my firearm is not on me. Question: Do Police officers have the "legal right" to disarm individuals they encounter? Maybe only in the case of someone being detained/ arrested? Why is an individual likely required to be disarmed and not the police officer? It's the police who've proved to be over-aggressive, liars, thieves, murderers, incompetent, inept, violent, etc and there our thousands of videos on YouTube to prove it. It's the police who need to be disarmed and given maybe a rubber-band gun as a replacement.
- **At Approximately the 6:50 mark** three more State Troopers arrive.
- **At approximately the 7:25 mark** she finally finishes explaining why she pulls me over – and I ask her to show me a victim.
- **At approximately the 8:00 mark** I again make a plea to retain my smart-phone, so I can record the scene, request denied. "You don't have a right to your property on a traffic stop".
- **At approximately the 8:40 mark** she attempts to get me to incriminate myself by hoping I'd say I wasn't wearing my seat belt – I didn't intentionally did not answer her.
- **At approximately the 9:00 mark** trooper McKenney Trespasses against my property (smart-phone) and lays my phone down on my car camera facing the sky – [Seen in my video here](#). I initially thought my phone was touched by one of the Troopers guarding me. I pleaded with them off and on through the length of the detainment to allow me to retain my property because it was 100+ degrees that day and I was in fear that a combination of the direct sunlight & heated metal of my car

would damage my phone. They refused to let me obtain my property or even move my property to a safer location and even said they weren't responsible for it if it ended up getting damaged by the heat.

- **At approximately the 10:10 mark** one of the Troopers approaches McKenney's vehicle and questions her about the stop and makes first mention of CopBlock.org
- **At approximately the 10:48 mark** she acknowledges I was recording to her colleague and said, "I asked him to get out of the car and he puts a camera in my face" and goes on to say "I don't want myself on any type of YouTube or whatever." (She knew very well it wasn't a weapon and simply did not want to be recorded. [Public Servants like her self have no reasonable expectation of privacy.](#))
- **At approximately the 11:14 mark** another Trooper approaches her car to let her know I'm "from the online Cop Block thing".
- **At approximately the 11:55 mark** Trooper McKenney explains to colleague that I was wanting to retain my phone to record the scene, she goes on to say, "I don't want his cell phone in my face, it could be a gun." (Maybe that's why there are so many "accidental" shootings?)
- **At approximately the 12:10 mark** McKenney's colleague says, "he calls for a supervisor every time he gets pulled over" (That's not true first of all, secondly that proves he's seen the VCU traffic stop video).
- **At approximately the 16:06 mark** The officer who had been sneering at me began attempting to search the inside of my car. He peered into the windows, walked around the car, even tried to get in it at one point. What is the purpose of this search? Who knows. I made it very clear I was not giving anyone consent to search my car.
- **At approximately the 20:09 mark** Trooper McKenney continues to try and find reasons to extort more money from me (for doing no harm to anyone life, liberty or property).
- **At approximately the 25:28 mark** she finally gets out of her car to give me the citations - colleague says "Be aware he may not sign."

As you will see in the picture(s) provided, RE: Freedom of Information Act Request, each piece of information I requested was addressed in paragraph's numbered 1-7. **You'll notice in paragraph 6 and 7 the information I requested any possible records concerning McKenney's [history of] behavior or conduct. I was denied that information. Furthermore as you can see noted in paragraph 7 that there are a total of 806 "Public Records as of that date of your request, which are being withheld under this exemption", the exemption being specifically, "Virginia Code Sections 2.2-3704 (B) (1), personnel records and/or complaints and internal and/or administrative investigative records are exempt from disclosure pursuant to 2.2-3706 (F)(11)(ii) and the department is exercising its discretion not to release these records."**

My question is, why the secrecy? **806 "Public Records" are being withheld?** Why is there a lack of transparency? Is it really a "public record" if the public can't view it? This experience illustrates the issue of law enforcement or other government officials behaving without regard for the law. Preventing the release of public records allows some officials to behave like they are unaccountable and exempt from the law.

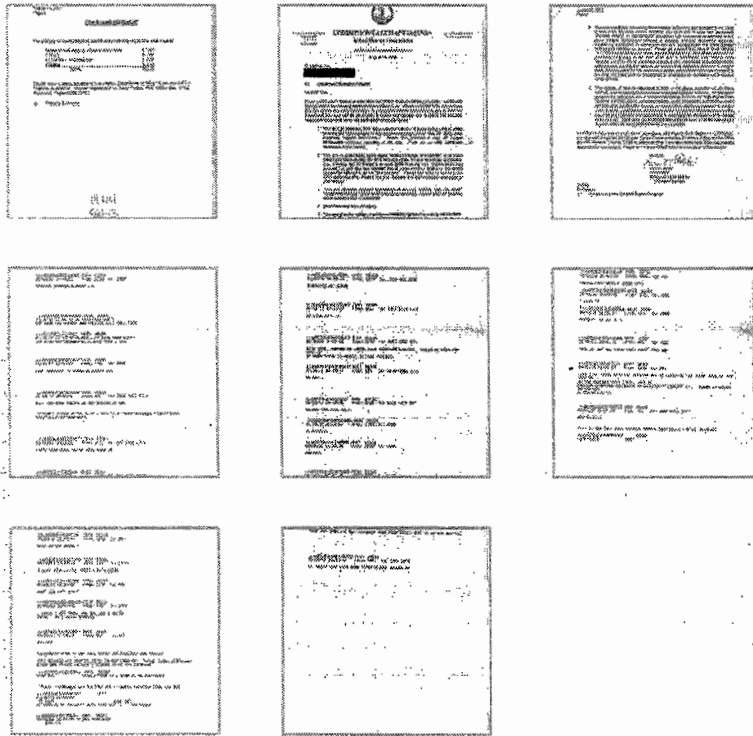
Also, included in the pictures is the TEXT MESSAGES transcripts Trooper McKenney and her colleagues were sending/ receiving after the stop about me. A couple of the message in particular concern me. From Officer with Badge # 881, **"THIS WAS THE SAME REASON HE GOT PULLED AT VCU"**. That is a FALSE, I was pulled over for saying, "Stop harassing people, we pay your pay checks." Another concerning text message says, **"NEED TO LET THE JUDGE KNOW ABOUT THAT GUY"**.

These types of statements are serious red flags. We're supposed to have a "fair" Judicial System, but instead you have the police, judges and prosecutors all working on the same team and collaborating together to ruin people's lives. 1. There are 2.1 MILLION people caged up in a Prison or in Jail, awaiting trial. The U.S has about 5% of the WORLD population but yet 25% of the world's PRISON POPULATION. Nonviolent "Offenders" make up more than 60 percent of the prison and jail population. Nonviolent drug offenders now account for about one-fourth of all inmates, up from less than 10 percent in 1980. And maybe **THE MOST concerning text message** out of them all, **"YEAH I AM GONNA GIVE YOU ALL DETAILS AND HE LIVES ON THE OTHER SIDE OF 360 FROM ME SO YOU CAN BET THAT I WILL HAVE NO PROBLEM STOPPING HIM AGAIN IF HE DOESN'T CORRECT IT.... EVERY 24 HOURS HE CAN GET A TICKET FOR IT."**

Sure enough I've been cited for it again since then by a Hanover Deputy, I go to court for that in October with some great defense techniques up my sleeve. Can't forget the "YOU GO GIRL" TO END THE TRANSMISSION OF TEXTS SENT/ RECEIVED. Have Police forgotten

whom they work for and whom they are supposed to serve and protect? I believe they have, and here is a wonderful [message to law enforcement & military](#) personnel all across the world. We live in a world in which are "legislators" have literally [criminalized us](#) all and the Police have a duty to use their common sense, conscious and discretion when choosing which laws to enforce.

Lastly you will see the receipt of my FOIA Request, in order to get my "public records", I had to pay \$80.13. You will see it itemized on the receipt, \$73.99 being towards, "research and copying of public documents". Although I disagree with being charged that much, specifically because that is their job, to provide information when FOIA Requests are submitted. Apparently that is some how not covered using the money that's taxpayers pay to provide their salaries, vehicles, computers, guns, tanks and other toys.



In the end, I regret putting down my phone during the traffic stop. I understand that I might have been arrested or cited for some offence like "Failure to Obey a Lawful Order". No individual has any idea how a police stop will end, but I know that I have a right to record the actions of a public official, and I know that it is unreasonable that the officer would have mistaken my phone for a weapon. Had the officer honestly believed the phone was a weapon, I would have been made to lie prone on the pavement in order to search my person and my car. This officer overreacted, a mistake that could result in the needless injury or death of someone during a future stop. I recommend that the officer be retrained to prevent a future, possibly dangerous, mistake. Ultimately, it is my hope that everyone, especially "law enforcement" embrace [the Non-Aggression Principle](#), that no one has the right to initiate force against anyone else. I challenge anyone who has taken an oath that police and military take, which I took when I enlisted in the Army in 2006, to visit the [Oath Keepers](#) website to learn more about the standards expect of people who wear the uniform.

4 0

8+1 Buffer

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2
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Category: [Corrupt Police](#), [Justice System](#), [Police Abuse](#), [Police Abuse Power](#), [Police Caught Lying](#) | Tags: [Cop Block](#), [Flex Your Rights](#), [Know Your Rights](#), [Non-aggression Principle](#), [police accountability](#), [police harassment](#), [Police State](#), [Trooper McKenney](#), [Virginia Cop Block](#), [Virginia State Police](#)



1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100 101 102 103 104 105 106 107 108 109 110 111 112 113 114 115 116 117 118 119 120 121 122 123 124 125 126 127 128 129 130 131 132 133 134 135 136 137 138 139 140 141 142 143 144 145 146 147 148 149 150 151 152 153 154 155 156 157 158 159 160 161 162 163 164 165 166 167 168 169 170 171 172 173 174 175 176 177 178 179 180 181 182 183 184 185 186 187 188 189 190 191 192 193 194 195 196 197 198 199 200 201 202 203 204 205 206 207 208 209 210 211 212 213 214 215 216 217 218 219 220 221 222 223 224 225 226 227 228 229 230 231 232 233 234 235 236 237 238 239 240 241 242 243 244 245 246 247 248 249 250 251 252 253 254 255 256 257 258 259 260 261 262 263 264 265 266 267 268 269 270 271 272 273 274 275 276 277 278 279 280 281 282 283 284 285 286 287 288 289 290 291 292 293 294 295 296 297 298 299 300 301 302 303 304 305 306 307 308 309 310 311 312 313 314 315 316 317 318 319 320 321 322 323 324 325 326 327 328 329 330 331 332 333 334 335 336 337 338 339 340 341 342 343 344 345 346 347 348 349 350 351 352 353 354 355 356 357 358 359 360 361 362 363 364 365 366 367 368 369 370 371 372 373 374 375 376 377 378 379 380 381 382 383 384 385 386 387 388 389 390 391 392 393 394 395 396 397 398 399 400 401 402 403 404 405 406 407 408 409 410 411 412 413 414 415 416 417 418 419 420 421 422 423 424 425 426 427 428 429 430 431 432 433 434 435 436 437 438 439 440 441 442 443 444 445 446 447 448 449 450 451 452 453 454 455 456 457 458 459 460 461 462 463 464 465 466 467 468 469 470 471 472 473 474 475 476 477 478 479 480 481 482 483 484 485 486 487 488 489 490 491 492 493 494 495 496 497 498 499 500 501 502 503 504 505 506 507 508 509 510 511 512 513 514 515 516 517 518 519 520 521 522 523 524 525 526 527 528 529 530 531 532 533 534 535 536 537 538 539 540 541 542 543 544 545 546 547 548 549 550 551 552 553 554 555 556 557 558 559 560 561 562 563 564 565 566 567 568 569 570 571 572 573 574 575 576 577 578 579 580 581 582 583 584 585 586 587 588 589 590 591 592 593 594 595 596 597 598 599 600 601 602 603 604 605 606 607 608 609 610 611 612 613 614 615 616 617 618 619 620 621 622 623 624 625 626 627 628 629 630 631 632 633 634 635 636 637 638 639 640 641 642 643 644 645 646 647 648 649 650 651 652 653 654 655 656 657 658 659 660 661 662 663 664 665 666 667 668 669 670 671 672 673 674 675 676 677 678 679 680 681 682 683 684 685 686 687 688 689 690 691 692 693 694 695 696 697 698 699 700 701 702 703 704 705 706 707 708 709 710 711 712 713 714 715 716 717 718 719 720 721 722 723 724 725 726 727 728 729 730 731 732 733 734 735 736 737 738 739 740 741 742 743 744 745 746 747 748 749 750 751 752 753 754 755 756 757 758 759 760 761 762 763 764 765 766 767 768 769 770 771 772 773 774 775 776 777 778 779 780 781 782 783 784 785 786 787 788 789 790 791 792 793 794 795 796 797 798 799 800 801 802 803 804 805 806 807 808 809 810 811 812 813 814 815 816 817 818 819 820 821 822 823 824 825 826 827 828 829 830 831 832 833 834 835 836 837 838 839 840 841 842 843 844 845 846 847 848 849 850 851 852 853 854 855 856 857 858 859 860 861 862 863 864 865 866 867 868 869 870 871 872 873 874 875 876 877 878 879 880 881 882 883 884 885 886 887 888 889 890 891 892 893 894 895 896 897 898 899 900 901 902 903 904 905 906 907 908 909 910 911 912 913 914 915 916 917 918 919 920 921 922 923 924 925 926 927 928 929 930 931 932 933 934 935 936 937 938 939 940 941 942 943 944 945 946 947 948 949 950 951 952 953 954 955 956 957 958 959 960 961 962 963 964 965 966 967 968 969 970 971 972 973 974 975 976 977 978 979 980 981 982 983 984 985 986 987 988 989 990 991 992 993 994 995 996 997 998 999 1000

Mr. Nathan Cox
August 16, 2012
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FOIA BILLING STATEMENT

The charges for conducting this search and producing copies are stated below:

Research and copying of public documents	\$73.99
CDs (2)	\$ 1.04
22 Copies x 10 cents/page	\$ 2.20
Postage	\$ 2.90
<u>TOTAL:</u>	<u>\$80.13</u>

Please remit a check payable to the Virginia Department of State Police and mail to Property & Finance, Virginia Department of State Police, Post Office Box 27472, Richmond, Virginia 23261-7472.

cc: Property & Finance

19.44
80.13
60.06



Colonel W. S. (Steve) Flaherty
Superintendent
(804) 674-2000

COMMONWEALTH of VIRGINIA
DEPARTMENT OF STATE POLICE

Lt. Col. Robert B. Northern
Deputy Superintendent

P. O. BOX 27472, RICHMOND, VA 23261-7472

August 16, 2012

Mr. Nathan Cox
[REDACTED]

Re: Freedom of Information Request

Dear Mr. Cox:

Thank you for your Freedom of Information Act (FOIA) request in which you stated: "we demand that you submit the following information/documents to us." Please note that FOIA only pertains to public records and not to information. In accordance with the email dated August 8, 2012, the Department has now had an opportunity to review your request and to gather the enclosed responsive documents, which are addressed individually below.

1. "Any and all videotape from every onboard camera of every police vehicle which pursued Cox corresponded to any incident involving Cox on May 26, 2012; most especially Trooper McKenneys." *Please find enclosed a copy of Trooper McKenney's videotape recording of the stop. There are no other videotapes responsive to this request.*
2. "Any and all audio tapes, audio tracks, audio recordings, or transcripts of all police radio traffic taken on May 26, 2012 related to State Trooper McKenney and Nathan Cox, including but not limited to all radio traffic from the time Trooper McKenney pursued Cox until Cox was released and all communication related to Cox ended (hereinafter referred to as the "Cox incident".) *Please find attached copies of the CAD audio recording, Incident and Unit Histories and text messages responsive to your request.*
3. "Any and all police dispatch logs related to the Cox incident (May 26, 2012)." *Please find attached a copy of the CAD audio recording, Incident and Unit Histories, which were provided in request #2.*
4. [Note there was not a #4 listed.]
5. "Any and all police notices or advisories related to Nathan Cox held by the VA State Police." *There are no public records responsive to this request.*

A NATIONALLY ACCREDITED LAW ENFORCEMENT AGENCY

Exhibit D

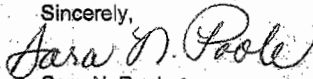
Mr. Nathan Cox
August 16, 2012
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6. "Records specifically concerning State Trooper McKenney kept pursuant to Va. Code § 15.2-1722, including without limitation any personnel records, any documents collected, created, or maintained in connection with complaints or concerns raised about Trooper McKenney's behavior or conduct, and any documents collected, created, or maintained in connection with any investigations into State Trooper McKenney's behavior or conduct." *Please be advised that Virginia Code Section 15.2-1722 has no application to the Virginia Department of State Police; however, as previously mentioned in the prior email and in accordance with Virginia Code Sections 2.2-3704 (B)(1), personnel records and/or complaints and internal and/or administrative investigative records are exempt from disclosure pursuant to Virginia Code Sections 2.2-3705.1(1) and (3) and further exempt from disclosure pursuant to 2.2-3706 (F)(1)(ii) and the Department is exercising its discretion not to release these records.*

7. "The number of records responsive to each of the above requests that are being withheld, and the specific basis for each such records being withheld." *As previously stated in the prior email, and in accordance number 6 above and with Virginia Code Sections 2.2-3704 (B)(1), personnel records and/or complaints and internal and/or administrative investigative records are exempt from disclosure pursuant to Virginia Code Sections 2.2-3705.1(1) and (3) and further exempt from disclosure pursuant to 2.2-3706 (F)(1)(ii) and the Department is exercising its discretion not to release these records. There were approximately 806 public records as of the date of your request, which are being withheld under this exemption.*

As stated in the previous email and in accordance with Virginia Code Section 2.2-3704(B)(3), you may wish to contact the Hanover County Commonwealth's Attorney's Office, at Post Office Box 470, Hanover, Virginia, 23069 to determine what, if any documents that Office may possess responsive to your request. Please let me know if the Department can be of further service.

Sincerely,



Sara N. Poole
Legal Office
Bureau of Administrative
& Support Services

SNP/tb

Enclosures

cc: Assistant Attorney General Charles Quagliato

msgs08192012.txt
***Text messages to / from Trp McKenny (1906) during the incident.
There are no messages about Cox prior to this.

<<<00526121546111906 6413 02965
05/26/12 15:46:11 From: 1750 To: 1906

CAUSING TROUBLE ALREADY LOL

<<<00526121546571906 6413 02966
05/26/12 15:46:36 TO 1906 FROM D107:
GET NAME AND NUMBER AND MILLNER WILL CALL THEM

<<<0052612154859881 6455 08108
05/26/12 15:48:38 TO 881,1477,1906 FROM D107:
GET INFO AND MILLNER WILL GIVE THEM A CALL

<<<00526121601031906 6413 02968
05/26/12 16:01:03 From: 540 To: 1906

WHAT HAPPENED TO THOSE BLINDERS LOL

<<<00526121610481477 7213 09341
05/26/12 16:10:48 From: 881 To: 1906 1477 1723

THIS WAS SAME REASON HE GOT PULLED AT VCU

****Call closed at 16:11:07 - all other text messages listed here
occurred after the call.

<<<00526121611501477 7213 09342
05/26/12 16:11:50 From: 1723 To: 881 1906 1477

STOPS LIKE THAT YOU DO NEED BACK UP

<<<0052612161200881 6455 08114
05/26/12 16:12:00 From: 1477 To: 881 1906 1723

msgs08192012.txt

HAHA IMAGINE THAT

<<<0052612161249881 6455 08116
05/26/12 16:12:49 From: 1477 To: 1723 881 1906

SURPRISED HE SIGNED

<<<00526121613291477 7213 09345
05/26/12 16:13:29 From: 881 To: 1906 1723 1477

IT LIKE COPS :)

<<<00526121613581477 7213 09346
05/26/12 16:13:58 From: 1723 To: 1477 1906 881

SAME HERE, THOUGHT HE WOULD GIVE PROBLEMS SIGNING, GUESS HE KNEW HOW
MANY OF
US WERE THERE TO ASSIST IN THAT PROCESS

<<<00526121613591477 7213 09347
05/26/12 16:13:59 From: 881 To: 1477 1906 1723

SO WAS I

<<<0052612161948881 6455 08122
05/26/12 16:19:48 From: 1906 To: 1723 1477 881

THANKS FOR YOUR HELP.

<<<00526121620181906 6413 02982
05/26/12 16:20:18 From: 1723 To: 1906

NO PROBLEM

<<<00526121621391906 6413 02983
05/26/12 16:21:39 From: 1477 To: 1906

ANYTIME

<<<00526121621491750 7238 05226
05/26/12 16:21:49 From: 1906 To: 1750

Page 2

msgs08192012.txt

JUST LEARNING THE AREA

<<<0052612162231540 7075 05770
05/26/12 16:22:31 From: 1906 To: 540

SHOULD HAVE BEEN A QUICK STOP

<<<00526121626151906 6413 02991
05/26/12 16:26:15 From: 1750 To: 1906

I HEAR YA

<<<00526121631251906 6413 02992
05/26/12 16:31:25 From: 881 To: 1906

ANYTIME WE GOT U !!

<<<00526121632311906 6413 02993
05/26/12 16:32:31 From: 881 To: 1906

NEED TO LET THE JUDGE KNOW ABOUT THAT GUY

<<<0052612163527881 6455 08145
05/26/12 16:35:27 From: 1906 To: 881

YEAH I AM GONNA GIVE ALL DETAILS AND HE LIVES ON THE OTHER SIDE OF 360
FROM ME
SO YOU CAN BET THAT I WILL HAVE NO
PROBLEM STOPPING HIM AGAIN IF HE DOESN'T CORRECT IT....EVERY 24 HOURS
HE CAN GET
A TICKET FOR IT.

<<<00526121637391723 7453 03688
05/26/12 16:37:39 From: 881 To: 1906 1723 1477

YOU GO GIRL

That is the last text message before 1906 signs off at 16:45:07

<<<I052612164507MA337 00848
HOFF #1906 HOFF

OtherMsgs.txt

Messages not TO or From 1906 (Trp Mckenney) but that appear to be referencing the Cox stop

<<<0052612154347540 7075 05738
05/26/12 15:43:47 From: 1750 To: 540

WHAT IS SHE DOING ?

<<<00526121552551750 7238 05206
05/26/12 15:52:55 From: 540 To: 1750

I DONT KNOW..Y SHE NEED A SUPERVISOR

<<<0052612155407540 7075 05745
05/26/12 15:54:07 From: 1750 To: 540

WHAT DID THEY SAY ?

<<<00526121554501750 7238 05214
05/26/12 15:54:50 From: 540 To: 1750

I DUNNO I GOT THERE AND SHE HAD 3 UNITS
THERE...SO I NEVER STOPPED

<<<0052612154827881 6455 08107
05/26/12 15:48:27 From: 669 To: 881

SHE OK?

Everything else is was sent after the incident was closed.

This message was sent at 16:12 to 669 from 881. Format looks different since 669 is not currently signed on to his terminal.

<<<I052612161219881 6455 02950
HTOM 881 HTOM D1 669 MT I GONA BE ON COP BLOCK

***Next 3 Messages are to/from the Dispatch terminal D107 and 881

<<<0052612162908CAD1 *****
05/26/12 16:29:08
TO D107 FROM 881:
WE GONA BE ON INTERNET WITH THAT GUY COP BLOCK

<<<0052612163119881 6455 08135
05/26/12 16:30:58 TO 881 FROM D107:
....EXPLAIN

<<<0052612163206CAD1 *****

Page 1

OtherMsgs.txt

05/26/12 16:32:06

TO D107

FROM 881:

THAT GUY 1906 HAS RUN INTERNET SHOW THAT MAKES COPS TO BE THE BAD GUY

<<<00526121633481723 7453 03685

05/26/12 16:33:48 From: 881 To: 1723 1477

HE REALLY DID CALM DOWN AFTER OTHERS SHOWED UP

Page 2

Exhibit D

Virginia Cop Block

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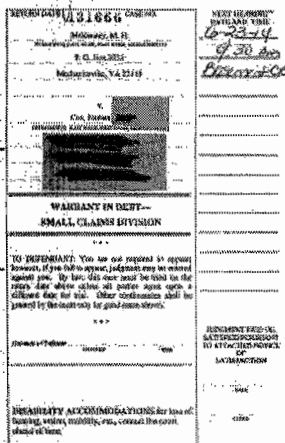
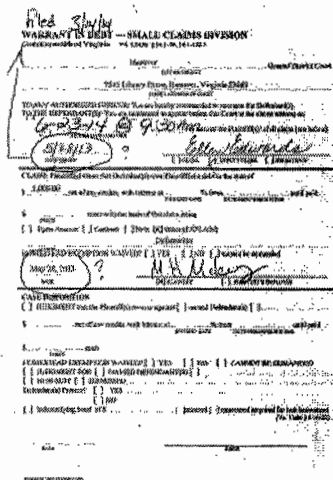
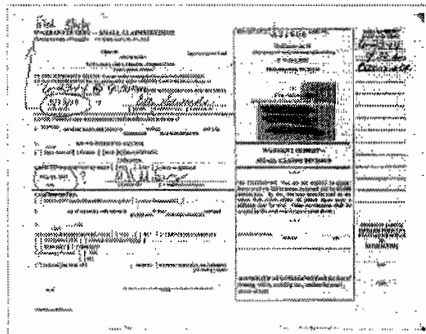
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Virginia Cop Block | March 26, 2014

18 Comments

Virginia Cop Block Founder Nathan Cox Sued by VSP Trooper Melanie McKenney



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On March 17, 2014 I was served a "Warrant in Debt". As you will see in the attached image, I'm being sued for \$5,000 by Virginia State Police Trooper Melanie McKenney. Some of you readers may recall that two years ago I was pulled over by Trooper Melanie

McKenney during Memorial Day Weekend when the Virginia State Police had many of their Revenue Generating Officers out on the interstates. I had described it as the second most aggressive traffic stop I had ever been involved in. She violated my rights and denied my right to record her by claiming my cell phone could be a gun - however the information and videos given to me through the FOIA Request showed that she knew it wasn't a gun, in her words, "I don't want myself on any type of YouTube or whatever." If you are not aware of this incident and would like to see the article and videos of that incident click here.

So almost two years later VSP Trooper Melanie McKenney is suing me for "Defamation". That's all the information I have and that apparently she has provided the courts. Below is a statement from my Attorneys Stephen Lewis and Danielle Lewis. As you'll noticed it's directed to local CBS 6 reporter Mark Holmberg who has already expressed in this story.



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March 26, 2014

Via Email
Mr. Mark Holmberg
WTVR-CBS 6

Re: Statement of Counsel Stephen C. Lewis - McKenney v. Cox

Dear Mr. Holmberg,

1. The case against our client, Mr. Nathan Cox, has been filed in small claims court. We will be seeking removal to General District Court or Circuit Court, depending on the number and quality of counterclaims we wish to include.
2. We have a strong opinion that the actions and statements of our client do not rise to the level of defamation, primarily because the Trooper is a public official and our client's statements involved matters of public concern.
3. We think that her initiating an action personally may serve to waive any immunity that she may have had over this dispute and subsequent cases that may arise based on the facts and situations at issue here.

Please do not hesitate to contact me in reference to this case.

Sincerely,

/s/ Stephen C. Lewis

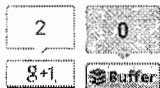
After being pulled over two years ago, I asked the public if anyone else had run-ins with Trooper McKenney and what type of experiences they had. A handful of people replied and said they were in similar situations where she was unprofessional and rude. **If you're reading this and YOU have been pulled over by Trooper Melanie McKenney of the Virginia State Police, please contact Virginia Cop Block!**

I am as confused about these allegations as anyone else. My suspicion is that she may be upset that her Dashboard Camera video, along with my cell phone videos, did in-fact make it to You Tube and have accumulated more than a Half a Million views. I will keep the public up to date on this situation.

UPDATE:

Coverage about this by NBC12:

<http://www.nbc12.com/story/25096433/va-state-trooper-dues-driver-she-pulled-over-for-defamation>



9 people like this. Be the first of your friends.



Category: Announcement, Civil Suit, Courts, Justice System, Virginia State Police | Tags: Trooper McKenney, Trooper Melanie McKenney, Virginia State Police

18 Comments

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MN · a year ago

Hah - that bitch apparently hasn't heard that she has no expectation of privacy while she's standing on a public freeway.

Hope you own her ass.

Fucking oath-breaking pig.

3 ^ | v · Reply · Share

Joe · a year ago

Fuck her Nate. She admitted exactly why she was violating your civil rights, and now shes pissed because she's looked at and laughed at because she came across as a baggy ass'd bitch who doesn't belong as a State Trooper. I hope you file a counter suit to go after this bitch.

Also,...start a go fund me account to help pay for your Lawyer. Copblock.org will get you the required attention you need.

2 ^ | v · Reply · Share

edward shegogue · a year ago

see that her case against you was dismissed and that you lawyered up, so what was the basis of the judges dismissal? maybe the rest of us can learn from it

1 ^ | v · Reply · Share

Jason · a year ago

Please. You tried to bait her into a confrontation from the start. Quit acting like a baby. She was polite and professional. You Sir were a dick!

1 ^ | v · Reply · Share

The public · a year ago

I think your all a bunch of idiots and if you have nothing to hide then don't act like an ass. If your asked to step out of the vehicle then a simple "why" is the only thing you should ask, unless your guilty and are concealing some contraband. For any of you that think you could do a better JOB as a police, State Trooper or Sheriff's Deputy then I encourage you to go to school and give a try. I promise you it's not as easy as you think. That's why your not a COP....

1 ^ | v · Reply · Share

Alex → The public · a year ago

Off course we can not get in to police force , as you know, you have to be in certain IQ categorize to get in , at I do NOT mean high IQ !

Watch it yourself :

<http://abcnews.go.com/US/court...>

1 ^ | v > Reply > Share >

Hitmute · a year ago

Good for him, cops dont prevent crimes, they are only useful after the damage is done. Troopers prey on drivers like school yard bullies and expect us to take it. Get em Cox!!! Dont back down

1 ^ | v > Reply > Share >

Toni · a year ago

If you have never done anything other than be factual about the events, then I see this as yet another act of senseless vindictiveness. If she alleges you defamed her, perhaps her definition of defamation is in-congruent with the rest of the legal professions definition? -- He / she who alleges, MUST PROVE... Good luck.

1 ^ | v > Reply > Share >

Jack Armstrong · a year ago

Clear attempt to intimidate and squash our Constitutional rights... I hope you take her to the cleaners!!

1 ^ | v > Reply > Share >

Ray · a year ago

This trooper is clearly lying. She knows it's a phone. She just doesn't want to be recorded. My take away from this is to remember to lock the door and partially roll the windows. Thanks Nathan for keeping them honest!

1 ^ | v > Reply > Share >

kat · a year ago

where is the link to the you tube videos from that day?

^ | v > Reply > Share >

Pete · a year ago

From the looks of the "public" court web site you have quite an extensive history interacting with law enforcement. Why do you think the law doesn't apply to you? This Trooper puts her life on the line every day for "you" and us, and this is the way your react. If you needed help you would be the first to call law enforcement. You were afraid this big mean Trooper was going to violate your rights; "Poor Baby." I'm glad the Trooper had back up; to protect you from her!

Why did you block out your address on the Warrant in Dept but left the Trooper's? Are we afraid of the government? It's public information.

All I can say, get a life and obey the laws and you wont get stopped to start with.

^ | v > Reply > Share >

Joe → **Pete** · 6 months ago

here, here.

Now I am all about protecting your rights, my rights, and their rights. But when you are wrong, your wrong. Man up, admit it, and take your punishment like a man. You had an expired inspection sticker and no front license plate. What do you expect? Whether you like the law or not, whether there is a victim or now is irrelevant. The law is the law. If you have an issue with it take it up with your local delegates not the trooper, she didn't write the law. But it is her job to enforce it. Respect that.

All this is coming from someone who has had their share of dealing with law enforcement, and even being charged, tried, and convicted. And I still say, that you sir were in the wrong, not the trooper.

^ | v > Reply > Share >

Richard P. Zuckerman · a year ago

Consider yapping with a lawyer about the prospect of counterclaiming for malicious

prosecution, among other torts, and asserting violation of 42 U.S.C. Section 1983 because you might be able to attract a civil rights lawyer to handle your counterclaim in light of the 42 U.S.C. Section 1988 attorney fees statute!!! You should compile the case law on your CONSTITUTIONAL RIGHT TO VIDEOTAPE A COP WHILE IN PUBLIC PLACE, assuming this did take place in a public place.

^ | v · Reply · Share

Anton Sherwood · a year ago

I'm surprised that Lewis's letter even mentions state immunity. Is he thinking of countersuing for SLAPP or the like, and that she might claim immunity to such a suit? Is there precedent?

^ | v · Reply · Share

Panzer · a year ago

This doesn't substantiate a claim, not to mention he's just under the wire for statute of limitations to expire. He's got to substantiate damage. I don't see that here. Fight.

^ | v · Reply · Share

Timothy Hutz · a year ago

As per 1st District Federal Court in Glik Vs. Boston, He has EVERY right to video record anyone in public space and the police have NO expectations of privacy in the performance of their duties. This is an intimidation tactic by the cop to harass and cost the defendant money for his lawyer. Federal courts have already ruled this constitutional and by no ways is defamation of character. This will get dropped by court VERY Quickly as there is no burden of proof submitted as required by small claims court in VA. ITS frivolous!!! His attorney should Demur this action!

^ | v · Reply · Share

Pup · a year ago

Wow. What a turd. (I hope I don't get sued for defamation now.)

Is there any way to counter sue, or at least recover legal expenses incurred as a result of this nuisance/harassment lawsuit.

^ | v · Reply · Share

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