

VIRGINIA: IN THE SCOTT COUNTY CIRCUIT COURT

MARY S. LANE

PLAINTIFF

v.

DOCKET NUMBER: C105-____.

WILLIE MAE KILGORE

DEFENDANT

SERVE: Willie Mac Kilgore
Office of the General Registrar of Scott County
Gate City, Virginia 24251

MOTION FOR JUDGMENT

Plaintiff, Mary S. Lane ("Ms. Lane"), demands judgment against the Defendant, Willie Mae Kilgore ("Mrs. Kilgore"), for the following reasons:

PARTIES

1. Ms. Lane is a citizen of the United States of America, the Commonwealth of Virginia, and Scott County, Virginia. At all relevant times, she was a qualified registered voter in Scott County, Virginia.

2. At all relevant times, Mrs. Kilgore was the General Registrar of Scott County, Virginia, a position she has held since 1979.

FACTS

3. At all relevant times, Mrs. Kilgore's husband, John Kilgore, was the Chairman of the Scott County Republican Party; two of her sons, Jerry Kilgore, and Terry Kilgore, were members of the Republican Party and held elected political office. Jerry Kilgore was Attorney General, and Terry Kilgore was the First Legislative District delegate to the General Assembly.

4. At all relevant times Mrs. Kilgore was an active member of the Republican Party and a strong political partisan. She openly showed favoritism for Republican candidates, and participated in political activities in behalf of Republican Party candidates.

5. In 2003, Ms. Lane's husband, Allan Lane, was the Democratic candidate for Sheriff, running against the incumbent Republican Sheriff, Jerry Broadwater.

6. On or about September 23, 2003, Ms. Lane received a Voter Card from the Scott County General Registrar, a copy of which is attached as Exhibit "A". Ms. Lane received

the new card because she had been previously registered under her former name, Poole, and had subsequently married Allan Lane.

7. In the fall of 2003, Ms. Lane campaigned actively for her husband, which fact was known by Mrs. Kilgore. On October 2, 2003, she visited the office of the General Registrar for Scott County, and requested a list of the persons who had requested absentee ballot applications, ("the list") which information she was entitled to receive under Virginia Code § 24.2-706.

8. Ms. Lane wanted to review the list, because Mrs. Kilgore and Charles R. Dougherty, Jr., an employee of the incumbent Sheriff, and others working in conjunction with Mrs. Kilgore in the Republican Party of Scott County, were suspected by Ms. Lane and others to have routinely violated election laws regarding absentee voting.

9. In violation of the law, Mrs. Kilgore refused to give Ms. Lane a copy of the list. Ms. Lane then contacted Sherry Wilson, an attorney who was Vice Chair of the Scott County Electoral Board. Ms. Wilson gave Ms. Lane a copy of the applicable code section. Ms. Lane returned to the General Registrar's Office on October 2nd, and

showed Mrs. Kilgore a copy of the law. She requested and once again was refused a copy of the list.

10. Ms. Wilson contacted the Registrar's office in Ms. Lane's behalf, and requested a copy of the list. Mrs. Kilgore refused to give her a copy of the list. Ms. Wilson then called the State Board of Elections, and spoke with Jean Jensen, Secretary of the State Board of Elections. Ms. Jensen called Mrs. Kilgore and told her provide a copy of the list to Ms. Lane.

11. Allan Lane was given a partial list on October 3, 2003, but Mrs. Kilgore deliberately refused to include the most recent applicant names in the list. When Ms. Lane requested the additional names she was told by Mrs. Kilgore that she could not give her a copy of the most recent applicant names.

12. Ms. Jensen was called again, and a staff member of the State Board of Elections called Mrs. Kilgore and told her to provide copies of the daily reports to those requesting the list. Allan Lane was given a copy of the additional names on October 8, 2003.

13. On October 6, 2003, Ms. Jensen received a call from Jerry Kilgore, Attorney General of Virginia, who complained to her about Ms Lane's conduct at his mother's office. He told Ms. Jensen that he and his brother Terry felt that Ms. Lane had been "harassing" their mother. Mrs. Jensen related the events of the previous week to the Attorney General

14. During the week of October 6, 2003, Mrs. Kilgore decided that she would get even with Ms. Lane and set about to find a way to retaliate against Ms. Lane.

15. On October 13, 2003, Ms. Lane received a letter signed by Mrs. Kilgore, postmarked October 10, 2003, in which Mrs. Kilgore claimed that she had received notice that Ms. Lane had been convicted of a felony and that as a result, her name had been removed from the voter registration records of Scott County. A copy of the letter from Mrs. Kilgore to Ms. Lane is attached as Exhibit "B".

16. The truth is, Ms. Lane had never been convicted of a felony, and Mrs. Kilgore had no honest basis for the accusation.

17. After she received the letter, Ms. Lane wrote a letter to Mrs. Kilgore denying that she was or ever had been convicted of a felony, and demanding that her voting rights be restored. A copy of the letter is attached as Exhibit "C".

18. Ms. Lane spoke with members of the Scott County Electoral Board about what Mrs. Kilgore had done to her; State Board of Elections was contacted, and Mrs. Kilgore was directed to reinstate Ms. Lane. Mrs. Kilgore reinstated Ms. Lane to the Voter Registration records, but she did not respond to Ms. Lane's letter.

19. Other employees of the Scott County General Registrar's Office saw the letter Mrs. Kilgore sent to Ms. Lane, were aware of its contents, and to whom it was addressed. In addition, Mrs. Kilgore communicated the false information in the letter to numerous other individuals associated with the Republican Party, including, but not limited to, Charles R. Dougherty, Jr., Sheriff Jerry Broadwater, her husband, John Kilgore, and her sons, Jerry and Terry Kilgore. She communicated the false information to other individuals with the belief and expectation that they would pass the false information to others.

COUNT ONE

20. Mrs. Kilgore's letter and oral statements were false, libelous, and slanderous of Ms.

Lane, and were intended to cause injury to her and to affect the outcome of the Sheriff's race.

21. Mrs. Kilgore's letter and oral statements were defamatory *per se*, made with actual malice, with the knowledge that the statements were false, and with reckless disregard for the truth.

22. Mrs. Kilgore knew the letter and oral statements were false, or believing them to be true, lacked reasonable grounds for such belief, or acted negligently in failing to ascertain the facts on which the publication was based. Mrs. Kilgore was negligent in the authorship and publication of the letter and oral statements, the contents of which Mrs. Kilgore authored.

23. The defamatory letter and oral statements created and made apparent a substantial danger to Ms. Lane's reputation.

24. As a proximate result of Mrs. Kilgore's libel, slander, malice and negligence, Ms. Lane has been caused to suffer permanent actual damages, including but not limited to

impairment of reputation, diminished standing in the community, personal humiliation, mental anguish and suffering.

COUNT TWO

25. Mrs. Kilgore intended that Ms. Lane receive the letter containing the false statements, and intended individuals other than Ms. Lane to see the letter and intentionally made oral statements disclosing the contents of the letter to others, and knew or should have known that this conduct would likely result in emotional distress to Ms. Lane.

26. Mrs. Kilgore's conduct was outrageous and intolerable in that it offended against the generally accepted standards of decency and morality and was in violation of her oath of office.

27. As a result of receiving and reading Mrs. Kilgore's letter, and her knowledge of the disclosure of the contents of the letter to others, Ms. Lane suffered severe emotional distress in the form of mental suffering, mental anguish, shame, humiliation, embarrassment, anger, worry, and nausea such that no reasonable person could be expected to endure it.

28. Ms. Lane's severe emotional distress was proximately caused by her reading of the false content of Mrs. Kilgore's letter, and her knowledge that Mrs. Kilgore had disclosed the false contents of the letter to other individuals.

REQUEST FOR RELIEF

Ms. Lane requests the following relief:

- (a) Compensation for her injuries in the amount of ONE HUNDRED THOUSAND DOLLARS (\$100,000.00);
- (b) Punitive damages in the amount of ONE HUNDRED THOUSAND DOLLARS (\$100,000.00);
- (c) Interest at the highest legal rate from October 13, 2003;
- (d) Costs expended and all other appropriate relief; and,
- (e) An apology from Mrs. Kilgore.

MARY S. LANE

-By Counsel-

GERALD GRAY LAW FIRM
A PROFESSIONAL CORPORATION
P. O. BOX 929
CLINTWOOD VIRGINIA 24228
276-926-4607
FAX: 276-926-4739



GERALD L. GRAY, COUNSEL FOR PLAINTIFF