19-6544

SUPREME COURT OF THE UNITED STATES

BRADLY CUNNINGHAM,

PETITIONER,

vs.

SONY PICTURES ENTERTAINMENT, a corporation; COLUMBIA TRISTAR, a corporation; NATIONAL BROADCASTING COMPANY AKA NBCUNIVERSAL, both corporations; and, JANE AND JOHN DOES 1 – 100,

RESPONDENTS.

USSC No.

Ninth Circuit No. 18-35442

USDC No. 3:17-cv-1686-SI

ORIGINAL

PETITION FOR WRIT OF CERTIORARI

Bradly Cunningham, Plaintiff, Pro se
10456927
2605 State Street
Salem, OR 97310

Duane Bosworth, OSB No. 825077
Attorney for Defendants SONY, Columbia, and NBC
Davis Wright Tremaine
1300 SW Fifth Avene, Suite 2400
Portland, OR 97201-5630
Telephone: 503/778-5224

QUESTIONS FOR REVIEW

1. Can the Court stay of this matter until final resolution of a related and dependant money damages case, Cunningham v. Washington County et al., 9th Circuit Case No. 18-35413 (see Tab C); or, in the alternative,
2. Can the Court Order: (a.) the Petitioner be allowed to obtain all withheld discovery from the SONY et al.; and, (b.) Order this lawsuit eligible for trial on the merits under ORS 31.150 et seq. (1995) with specific provisions: all relief is available to the Petitioner including defenses to his [wrongful] conviction set forth in Cunningham v. Washington County et al., 9th Cir Case No. 18-35413 (Tab C), as well as available relief under the 1995 defamation/false-light statute, including but not limited to, a full retraction and correction of Dead by Sunset by SONY et al., in the same prominance as all the promotions and November 1995 broadcast, in compliance with ORS 31.150 et seq. (1995), and specifically pursuant to Petitioner's October 27, 2016 Demand for Retraction and Correction.

BRAD CUNNINGHAM
10456927
2605 STATE STREET
SALEM, OREGON 97310

OVERVIEW

This lawsuit was filed against these defendants (SONY et al.) under 1995 state of Oregon Defamation and False-light statutes within one-year after I received Actual Knowledge of their 1995 broadcast of the movie, Dead by Sunset (DBS). Due to my incarceration and no fault of mine, it took over 20 years to obtain a copy of DBS. Once I viewed DBS I prepared a comprehensive Demand for Retraction and Correction which was served within 20-days on SONY et al., and subsequently ignored.

In addition to these state-law claims I am seeking relief for violation of my civil rights under 42 U.S.C.A. § 1983. The civil rights claims are based on the fact SONY et al. joined with the state of Oregon and became a state actor and agent in the production, filming, and promotion of DBS as follows:

1. the state of Oregon provided SONY et al. state locations and equipment as movie sets at little or no cost to the production company;
2. the state of Oregon provided SONY et al. with state employees to appear as actors in roles in the DBS enterprise;
3. the state of Oregon provided state employees (including state police) to promote the DBS enterprise in the news and other public media prior to broadcast.

These acts by SONY et al. and the state of Oregon violated my civil rights and are detailed in the Complaint.

BRAD CUNNINGHAM
10456927
2605 STATE STREET
SALEM, OREGON 97310

The U.S. District Court never allowed me to receive any of my discovery requests and then granted the SONY et al. motion to dismiss my lawsuit. In his opinion (TAB B) the Hon. Judge Michael Simon stated non-existent federal statutes , and went on to grant relief to SONY et al. for my claims against them based on the statute of limitations, all which is 100% contrary to black-letter law on defamation which mandates my claims are tolled until I receive Actual Knowledge (even if it is 20 years later).

The delay in receiving Actual Knowledge of the content of DBS was not my fault. In fact a few days prior to the November 1995 DBS broadcast on NBC Universal, I was abruptly and inexplicably transferred from the Oregon State Penitentiary in Salem, OR to the Snake River Correctional Institution in Ontario, OR and housed in the sex-offender treatment pod (I am not a sex-offender) where DBS was not allowed to be broadcast. The Oregon Department of Corrections allowed DBS to be broadcast to all other prisoners (approximately 14,500).

As stated I have not been allowed to receive any discovery. The U.S. District Court, without providing me any basis, capriciously modified my original caption on this case.

BRAD CUNNINGHAM
10456927
2605 STATE STREET
SALEM, OREGON 97310

TABLE OF CONTENTS

CASE AUTHORITY

BRAD CUNNINGHAM
10456927
2605 STATE STREET
SALEM, OREGON 97310

CONSTITUTIONAL AMENDMENTS

STATUTES

BRAD CUNNINGHAM
10456927
2605 STATE STREET
SALEM, OREGON 97310

ADDENDA

BRAD CUNNINGHAM
10456927
2605 STATE STREET
SALEM, OREGON 97310

SUPREME COURT OF THE UNITED STATES

BRADLY CUNNINGHAM,

PETITIONER,

USSC No.

Ninth Circuit No. 18-35413
USDC No. 6:18-CV-00049-SI

vs.

SONY Pictures Entertainment, et al;

RESPONDENTS.

BASIS FOR JURISDICTION

This Court has jurisdiction over this matter pursuant to Rule 4, Rule 10 through 16 and Rule 18 of the Rules of the Supreme Court of the United States. Further this lawsuit seeks relief under 42 USCA Section 1983 as well as relief for state law claims (defamation/false-light) under the diversity of jurisdiction/citizenship statutes. 28 U.S.C. §§ 1331 and 1332.

Dated this 14th day of October, 2019

Respectfully submitted,

Bradly Cunningham, Pro Se

vi.

BRADLY CUNNINGHAM
10456927
2605 STATE STREET
SALEM, OR 97310

SUPREME COURT OF THE UNITED STATES

BRADLY CUNNINGHAM,

PETITIONER,

USSC No. _____

Ninth Circuit No. 18-35442

USDC No. 3:17-cv-1686-SI

vs.

SONY PICTURES ENTERTAINMENT, a corporation; COLUMBIA TRISTAR, a corporation; NATIONAL BROADCASTING COMPANY AKA NBCUNIVERSAL, both corporations; and, JANE AND JOHN DOES 1 – 100,

RESPONDENTS.

PETITION FOR WRIT OF CERTIORARI

I move this court, pro se, to grant writ of certiorari for the above-captioned case, and base this petition on the following:

RELATED PROCEEDING

This case is closely related to and interdependent upon a 1983 case submitted to this Court: Cunningham v. Washington Courty et al. (WACO), Ninth

BRAD CUNNINGHAM
10456927
2605 STATE STREET
SALEM, OREGON 97310

Circuit Case No. **18-35413.** The Ninth Circuit refused to stay these proceedings pending the outcome of the WACO case and as a result I must file this petition for writ of certiorari to receive this stay or in the alternative, allow me to go to trial.

BRIEF HISTORY

I have been incarcerated for the last 26 years (since March 1993) as a result of a wrongful conviction (Actual Innocence) by WACO.

In November 1995 I filed for a prior restraint against these Respondents ("SONY") to stop the planned broadcast of a movie called Dead by Sunset (DBS). My motion for a prior restraint was filed in the United States District Court for Oregon and I appeared pro se from prison, by phone, before the Honorable Malcolm Marsh (the Court had jurisdiction of state law claims at that time under Diversity of Jurisdiction). Since I was incarcerated in the Oregon Department of Corrections (ODOC) there was no advance opportunity for me to see the DBS broadcast, but had gleaned from advance news reporting, promotional advertising, and other public statements that DBS contained nothing but 100% outrageously untrue, fabricated content comprising false-light and malicious defamation. Judge Marsh denied my request for a prior restraint but clearly stated in his Order I had remedies in law under ORS 31.150 et seq. (1995) once I received Actual

BRAD CUNNINGHAM
10456927
2605 STATE STREET
SALEM, OREGON 97310

Knowlege of the false-light and defamation contained in DBS.

DBS was subsequently broadcast weeks later and the ODOC, absent any legitimate penological reason, transferred me from the Oregon State Penitentiary in Salem, OR to the Snake River Correctional Institution in Ontario, OR into a unit where I was not permitted to view DBS. The ODOC allowed all other prisoners, state-wide, to view the DBS movie. It took me over 20 years to finally obtain a copy of the 1995 NBC broadcast of DBS. Once I viewed the movie, I prepared my Demand for Correction and Retraction pursuant to ORS 31.150 et seq. (1995) and served it upon SONY et al. in 2016.

SONY et al. ignored my demand for correction and retraction, and in 2017, I filed my lawsuit against them in the United States District Court for Oregon. By 2017 I had learned SONY et al. had worked closely with the state of Oregon in the production and promotion of DBS (using state of Oregon facilities, as well as state of Oregon employees, including state police, as actors in the movie and for their public promotion of DBS).

The SONY et al. refused to provide me any information to all my discovery requests, and the US District Court would not honor my motions to compel discovery and subsequently dismissed my lawsuit. I appealed to the 9th Circuit

BRAD CUNNINGHAM
10456927
2605 STATE STREET
SALEM, OREGON 97310

Court of Appeals in 2018.

The Ninth Circuit granted dismissal which resulted in the attached MANDATE issued July 22, 2019. I am addressing the decision of the US District Court and 9th Circuit in that they grant relief not available under the 1995 law. Further they are denying me any opportunity to rectify the injustice created in DBS. If I prevail in Cunningham v. WACO et al. (now before this Court under a petition for writ of certiorari all the defenses of SONY et al. are moot). Even if I do not prevail in the issues contained in my writ of certiorari I am entitled to my day in court to at least prevail on the facts and receive a complete retraction under ORS 31.150 et seq. (1995) even if damages are limited to nominal.

The DBS movie was broadcast one time (to my knowledge) in 1995.

ARGUMENT

I never received Actual Knowledge of the defamation/false-light until 2016 and I am entitled to a trial on the merits under ORS 31.150 et seq. (1995). SONY et al. wrongly claims the 2016 state of Oregon defamation/false-light statutes apply, and I disagree. Even if this were true I am still entitled to a trial on the merits under the 2016 defamation statute. Allowed under the 2016 defamation/false-light statute is my right to receive a full and complete retraction and correction by the

BRAD CUNNINGHAM
10456927
2605 STATE STREET
SALEM, OREGON 97310

SONY et al. that is in the same prominence as all the pre-broadcast promotions and actual broadcast of DBS in 1995. In the event I prevail in Cunningham v. WACO et al. there will be no such limit to the monetary damages against the SONY et al.

The SONY et al have not and cannot:

1. support nor defend any of the defamatory and false-light characterizations and depictions they falsely created and portrayed in DBS;
2. overcome their burden to show my claims in the DEMAND FOR RETRACTION AND CORRECTION are not valid; and,
3. show the DBS broadcast was nothing but an intentionally untrue and false, defamatory, and completely malicious undertaking.

In the event my conviction is effectivley vacated or overturned pursuant to the case now pending before the Supreme Court of the United States: Cunningham v. Washington Courty et al. (WACO), Ninth Circuit Case No. **18-35413**, the jury would have no basis to limit monetary relief to nominal damages or receive relief under the 2016 Oregon defamation/false-light statute. In the event SONY et al. attempts to use my conviction as a defense to damages I will be able to show the jury facts establishing my Actual Innocence due to Torture by the state of Oregon.

BRAD CUNNINGHAM
10456927
2605 STATE STREET
SALEM, OREGON 97310

LEGAL AUTHORITY

The 2001 anti-SLAPP defense is not available for SONY et al. to dismiss these 1995-based claims and proceedings. Oregon has clearly stated it does not recognize an anti-SLAPP defense for in a defamation case (the primary issue now before the Court). Neumann v. Liles, 261 Ore. App. 567.

The 9th Circuit acknowledges the legal principle of integral issues: The Cunningham v. WACO proceeding (Ninth Circuit Case No. **18-35413**) in essence voids my conviction and establishes my Actual Innocence. Young v. Davis, 259 Ore. App. 497, 314 P.3d 350, 2013 Ore. App. LEXIS 1371 (Or. Ct. App. 2013). "[T]he facts underlying [my]' claims [are to be construed] in the light most favorable to [me]," Neumann v. Liles, 261 Ore. App. 567, 570 n. 2, 323 P.3d 521 (2014), and [the Court is] not weigh the evidence or make any determination of the likelihood that [I] will ultimately prevail, citing Young v. Davis, 259 Ore. App. 497, 508, 314 P.3d 350 (2013).

To survive any motion to dismiss, I must only present sufficient factual matter, which must be accepted as true, and comprises enough facts to state a claim for relief that is plausible on its face." Naffe v. Frey, 789 F.3d 1030, 1035 (9th Cir. 2015) (quoting Ashcroft v. Iqbal, 556 U.S. 662, 678, 129 S. Ct. 1937, 173 L. Ed.

BRAD CUNNINGHAM
10456927
2605 STATE STREET
SALEM, OREGON 97310

2D 868 (2009)). My UN-refuted facts and statements of intentional torture are sufficient to show the likelihood I will prevail in my claims in Cunningham v. WACO, rendering my conviction void and eviscerating any claims of SONY et al. under any provision or edition of ORS 31.150 et seq. My DEMAND FOR RETRACTION AND CORRECTION clearly establishes the legal elements for intentional and malicious defamation/false-light by SONY et al. in 1995.

SONY et al. has not met the burden under the applicable 1995 law (31.150 et seq.) and ignores the November 1995 Order from The Honorable Judge Malcolm Marsh wherein, in open Court, he ordered the 1995 Oregon Defamation and False-light law applies to my claims and provides me remedies in law once I receive Actual Knowledge (which was forcibly denied and intentionally withheld by the state of Oregon to prolong my claims against SONY).

The inapplicable 2001 law mandates SONY et al. complete a multi-step process, which they have never done. Specifically, SONY cannot show the challenged claims before the Court arise out of an activity protected by the statute:

(a) Any oral statement made, or written statement or other document submitted, in a legislative, executive or judicial proceeding or other proceeding authorized by law;

BRAD CUNNINGHAM
10456927
2605 STATE STREET
SALEM, OREGON 97310

(b) Any oral statement made, or written statement or other document submitted, in connection with an issue under consideration or review by a legislative, executive or judicial body or other proceeding authorized by law;

(c) Any oral statement made, or written statement or other document presented, in a place open to the public or a public forum in connection with an issue of public interest; or,

(d) Any other conduct in furtherance of the exercise of the constitutional right of petition or the constitutional right of free speech in connection with a public issue or an issue of public interest. Or. Rev. Stat. § 31.150(2) (2013).

There is nothing in DBS that is educational or of public interest. Keep in mind SONY et al. caused just prior to the broadcast that DBS was "intended to make the public hate [me}." The fact they called this movie a documentary-true story is ludicrous and they cannot support this claim in Court. It is true they used my name, image, and likeness, but nothing in this movie was accurate (all detailed in my 45-page DEMAND FOR RETRACTION AND CORRECTION which they ignored). Absent even an allegation, claim, or shred of evidence SONY et al. falsely depicted and broadcast these totally made-up portrayals

1. that [I] sadistically harmed and terrorized [my] own small children (ages 3,

BRAD CUNNINGHAM
10456927
2605 STATE STREET
SALEM, OREGON 97310

5, and 7), including forcing them to build their own coffins which [I] dramatically told them, "I was going to bury them in";

2. that I trespassed and illegally entered the home of my estranged wife to attack her in her garage where I savagely raped her;
3. that I was a man who had stolen tens of millions of dollars from family and business partners, all of which I then lost (there were clear statements that 20 million dollars of this money that had been lost was borrowed from organized crime);
4. that I aimed loaded rifles at people (they broadcast pictures of [me] aiming and holding the cross-hairs of a rifle scope on police officers and total strangers walking down public streets);
5. that I threatened and aimed loaded pistols at my children and girlfriend;
6. they showed scenes of me stealing jewelry and other expensive personal items from my ex-wife which I then gave to my new girlfriend; and,
7. in later post-broadcast DBS related interviews the executive producer claimed I was a prison 'rat' and informant (the pre- and post-broadcast interviews were conducted on 'news' shows all over the United States both at NBCUniversal and other television stations).

BRAD CUNNINGHAM
10456927
2605 STATE STREET
SALEM, OREGON 97310

These are only a few of the thousands of false, malicious, and egregiously untrue and defamatory characterizations they created and fostered about me by SONY et al. in DBS. SONY et al. has never defended nor justified any of these horrible falsehoods about me. Even the most liberal claims under interpretations of artistic license, free-speech, educational, or public interest cannot justify what SONY et al, has done to me in DBS.

The intent of SONY et al. is clear, and was best summarized in several post-broadcast interviews by the same SONY/Columbia Tristar/NBCUNIVERSAL executive producer, who said in these interviews "it [was] possible Cunningham would be beaten or murdered in prison after the other prisoners [see] DBS".

SONY et al. fail to present any evidence, substantial or otherwise, to the Court to support a *prima facie* defense under any edition of ORS 31.150. Further they cannot show that any of (a.) through (d.) above apply to the facts of this case, or to their defense; AND EQUALLY IMPORTANT, that anything contained within my DEMAND FOR RETRACTION AND CORRECTION does not validly comprise defamation and false-light. See, Young v. Davis, 259 Ore. App. 497, 508, 314 P.3d 350 (2013).

The case against Washington County et al. (9th Circuit No. **18-35413**) is

BRAD CUNNINGHAM
10456927
2605 STATE STREET
SALEM, OREGON 97310

intractably related to this SONY case not only for money damages but because it effectively voids my wrongful criminal conviction and establishes the proof for my Actual Innocence. The issue of pretrial torture, which rendered me unable to aid and assist in my own defense, is sufficiently and clearly plead in Cunningham v. WACO et al. None of the facts in this case have ever been refuted or denied by the Washington County et al. The WACO Defendants condoned this willful and malicious torture (dark isolation) and other harsh conditions of me as a pre-trial detainee as an intentional effort to render me unable to aid and assist in my defense and guarantee them a conviction. My wrongful conviction was a political conviction, and the Supreme Court has "permitted federal courts to [apply abstention principles in damages actions to enter a stay, but [it has] not permitted them to dismiss the action altogether." Quackenbush v. Allstate Ins. Co., 517 U.S. at 730. This Court is compelled to follow the principles of comity, and federalism, in support of a stay pending the outcome of Cunningham v. WACO et al., 9th Circuit Court Case No. **18-35413** , and if necessary SONY et al. claims and counterclaims until the issues of my wrongful conviction and Actual Innocence have concluded. 767 Third Ave. Assocs. v. Consulate General, 60 F. Supp. 2d at 280, 282. The Court is otherwise foreclosing my opportunity to present a cogent

BRAD CUNNINGHAM
10456927
2605 STATE STREET
SALEM, OREGON 97310

case. The Supreme Court has held [federal courts may enter a stay in a federal proceeding], and further are usually not permitted to dismiss [a related] action if the action is for money damages. Quackenbush v. Allstate Ins. Co., 517 U.S. at 730, 116 S. Ct. 1712, 135 L. Ed. 2D 1 (1996).

In this SONY et al. case the U.S. District Court also permitted false-sworn and untrue facts by the Defendants/Respondents to prevail in the record; and ignored the evidence I presented of my claims against SONY et al. See DEMAND FOR RETRACTION AND CORRECTION filed in the U.S. District Court along with a copy of the Complaint, and submitted in full to the Ninth Circuit Court of Appeals in Cunningham v. WACO, Case No. 18-35413.

Given these facts my wrongful conviction would become effectively void and establish my Actual Innocence, with no relief available to the SONY et al. Their justification for dismissal of all my claims solely hinges on a 2001 version of Oregon's Defamation statute which the state of Oregon has stated is not available to them as a defense in defamation claims.

The state of Oregon does not allow SONY et al. a defense under any provision or principle of anti-SLAPP for claims of defamation. The 2001 version of Oregon's Defamation/False-Light statute does not apply to this 1995 broadcast

BRAD CUNNINGHAM
10456927
2605 STATE STREET
SALEM, OREGON 97310

of DBS. Even under the 2001 version, no relief for a special motion to dismiss is available under these facts. See,

Neumann v. Liles, 295 Or.App. 340, 434 P.3d 438 (Or. App., 2018)

This defamation case, concluded th[e Plaintiff] had adequately demonstrated defendant's negative online review of the wedding venue operated by Plaintiff was actionable under Oregon case law on defamation. Neumann v. Liles , 261 Or. App. 567, 580-81, 323 P.3d 521 (2014) (Neumann I). An Anti-SLAPP defense is not available to the SONY et al.

The Oregon Supreme Court had ruled in Neumann v. Liles, 358 Ore. 706: "....The roots of that tort run even deeper: the English common law had recognized the tort of defamation long before the formation of the American republic. See Milkovich v. Lorain Journal Co., 497 U.S. 1, 11, 110 S Ct 2695, 111 L Ed 2d 1(1990) ("Since the latter half of the 16th century, the common law has afforded a cause of action for damage to a person's reputation by the publication of false and defamatory statements.") (citing L. Eldredge, Law of Defamation 5 (1978)). {369 P.3d 1121} To establish a claim for defamation, a plaintiff must show that a defendant made a defamatory statement about the plaintiff and published the statement to a third party. Wallulis v. Dymowski, 323 Ore. 337, 342-43, 918 P2d

BRAD CUNNINGHAM
10456927
2605 STATE STREET
SALEM, OREGON 97310

755 (1996) (so holding). A defamatory statement is one that would subject the plaintiff "to hatred, contempt or ridicule * * * [or] tend to diminish the esteem, respect, goodwill or confidence in which [the plaintiff] is held or to excite adverse, derogatory or unpleasant feelings or opinions against [the plaintiff]." Farnsworth v. Hyde, 266 Ore. 236, 238, 512 P2d 1003 (1973) (internal quotation marks omitted). In the professional context, a statement is defamatory if it falsely {358 Ore. 712} "ascribes to another conduct, characteristics or a condition incompatible with the proper conduct of his lawful business, trade, [or] profession." Brown v. Gatti, 341 Ore. 452, 458, 145 P3d 130 (2006) (internal quotation marks omitted).

Some defamatory statements are actionable per se-that is, without proof of pecuniary loss or special harm. Libel, that is, defamation by written or printed words, is actionable per se. Hinkle v. Alexander, 244 Ore. 271, 277, 417 P2d 586 (1966) (on rehearing). Slander, which is defamation by spoken words, also may be actionable per se under certain circumstances. For instance, spoken words that injure a plaintiff in his or her profession or trade may constitute slander per se. See, e.g., Wheeler v. Green, 286 Ore. 99, 124, 593 P2d 777 (1979) (where defendant accuses plaintiff of misconduct or dishonesty in performance of plaintiff's profession or employment, matter is "actionable without proof of specific harm");

BRAD CUNNINGHAM
10456927
2605 STATE STREET
SALEM, OREGON 97310

see also Barnett v. Phelps, 97 Ore. 242, 244-45, 191 P 502 (1920) (discussing classes of spoken words that are actionable per se).

At early common law, defamatory statements were generally deemed actionable regardless of whether they were statements of fact or expressions of opinion. "However, due to concerns that unduly burdensome defamation laws could stifle valuable public debate, the privilege of 'fair comment' was incorporated into the common law as an affirmative defense to an action for defamation." Milkovich, 497 U.S. at 13. Under the "fair comment" privilege, a statement was protected if "it concerned a matter of public concern, was upon true or privileged facts, represented the actual opinion of the speaker, and was not made solely for the purpose of causing harm." Id. at 13-14; see Bank of Oregon v. Independent News, 298 Ore. 434, 437, 693 P2d 35, cert den, 474 U.S. 826, 106 S. Ct. 84, 88 L. Ed. 2D 69 (1985) (under qualified privilege of "fair comment and criticism," a defendant is not liable if publication was made in good faith and without malice); Peck v. Coos Bay Times Pub. Co. et al., 122 Ore. 408, 421, 259 P 307 (1927) (same). The "fair comment" privilege thus served "to strike the appropriate balance between the need for vigorous public discourse and the need to redress injury to citizens wrought by invidious or irresponsible speech." Milkovich, 497 U.S. at 14. ...."

BRAD CUNNINGHAM
10456927
2605 STATE STREET
SALEM, OREGON 97310

The Defendants/Respondents [illegal] retroactive application and use of the 2001 Oregon defamation statute constitutes a clear Due Process violation and denies me remedies under law. Imposing Ex Post Facto application of the 2001 Oregon legislative act for Defamation is unwarranted and illegal because it deprives me of Due Process and other protected constitutional rights. This would further be contrary to the decision of, and deny me of the rights set forth by, the Hon. Judge Malcolm Marsh, US District Court, who ruled in his 1995 Order: that I had remedies in law against these Defendant under Oregon's defamation and false-light statute (pursuant to my1995 motion for a prior restraint). Granting relief for SONY et al. under the 2001 anti-SLAPP law is contrary to the jurisprudence limiting the retroactive application of new rules to cases on collateral review to those that "alter our understanding of the bedrock procedural elements essential to the fairness of a proceeding." Tyler v. Cain, 533 U.S. 656, 665, 121 S. Ct. 2478, 150 L. Ed. 2D 632 (2001).

The Court, without deciding whether each of [my] claims was subject to Or. Rev. Stat. § 31.150 et seq., 1995 or 2001, avoids review of the trial court and that it applied an incorrect legal standard with respect to [my] burden of proof under the correct statute. The trial court erred in granting Defendant's special motion to strike

BRAD CUNNINGHAM
10456927
2605 STATE STREET
SALEM, OREGON 97310

my defamation [and wrongful use of civil proceedings] claims. Young v. Davis, 259 Ore. App. 497, 314 P.3d 350, 2013 Ore. App. LEXIS 1371 (Or. Ct. App. 2013).

CONCLUSION

The Defendants/Respondents cannot simply select an inapplicable later and more favorable version of the state defamation/false-light statute to avoid all financial consequences for their bad acts. As the plaintiff I am entitled to seek relief under both 42 USC § 1983 as well as remedies under ORS 31.150 et seq. (1995) for which I may or may not receive limited money damages. SONY et al, is required under state law, to make a full RETRACTION AND CORRECTION for their broadcast of DBS if I prevail on the facts of my case against them. In many ways this is nearly as important as punitive and other money damages.

SONY et al. cannot defend any of their malicious and totally false depictions they attributed to me in DBS. The only legitimate hope SONY et al. has to my claims against them in this lawsuit is to find a Court willing to demonstrate clear bias in their favor and be willing to ignore the full relief available under the law.

These fabricated and completely untrue stories in DBS have had significant ill-effects on my treatment by the courts and has adversely affected all my court appeals, including this proceeding. SONY et al. do not believe the depictions in DBS are true or accurate. They cannot support the claims in the DBS broadcast.

BRAD CUNNINGHAM
10456927
2605 STATE STREET
SALEM, OREGON 97310

I have the constitutional right to have a trial on my claims. This is true even if at the time of my trial the jury instructions limit my money damages to nominal damages. In prevailing, I would still recover all my costs, and importantly, a full retraction and correction of DBS by SONY et al.

Dated: October 25, 2019

Respectfully submitted,

Bradly Cunningham, Pro Se

BRAD CUNNINGHAM
10456927
2605 STATE STREET
SALEM, OREGON 97310