

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

BRYAN ANTHONY REO,

Plaintiff,

v.

MARTIN LINDSTEDT,

Defendant.

Case No. 1:19-cv-02589-CAB

Hon. Christopher A. Boyko

Mag. Thomas A. Parker

**THIRD-PARTY DEFENDANT KYLE J. BRISTOW'S ANSWER TO THIRD-PARTY
PLAINTIFF MARTIN LINDSTEDT'S OBJECTION TO MAGISTRATE'S
RECOMMENDATION (ECF NO. 53).**

(ORAL ARGUMENT NOT REQUESTED)

NOW COMES Kyle J. Bristow ("Bristow"), *pro se*, and hereby propounds Third-Party Defendant Kyle J. Bristow's Answer to Third-Party Plaintiff Martin Lindstedt's Objection¹ to Magistrate's Recommendation (ECF NO. 53):

I. STATEMENT OF FACTS

On February 3, 2020, Martin Lindstedt ("Lindstedt") filed a pleading with the Court which alleges third-party claims against Bristow. (ECF No. 17; PageID. ## 126-164).

On March 17, 2020, Bristow filed Bristow's Motion to Dismiss which invokes Fed. R. Civ. P. 12(b)(2) and 12(b)(6). (ECF No. 25, PageID. ## 218-240).

On April 20, 2020, Lindstedt filed Lindstedt's Answer to Bristow's Motion to Dismiss. (ECF No. 34, PageID. ## 288-290).

¹ Martin Lindstedt's Objection was mailed to the Court for filing on August 24, 2020. It has not yet been docketed.

On April 19, 2020², Bristow filed Bristow’s Reply to Lindstedt’s Answer to Bristow’s Motion to Dismiss. (ECF No. 33, PageID. ## 282-287).

On August 12, 2020, Magistrate Judge Thomas M. Parker (“Mag. Parker”) issued his Report and Recommendation regarding Bristow’s Motion to Dismiss. (ECF No. 53, PageID. ## 489-503). The gist of the Recommendation is that the Court lacks personal jurisdiction over Bristow due to the reason that Ohio’s long-arm personal jurisdiction statute—R.C. § 2307.382—and the Due Process Clause of the Fourteenth Amendment to the United States Constitution would be violated if the Court entertains Lindstedt’s third-party claims against Bristow. (ECF No. 53, PageID. ## 492-499). Furthermore, assuming *arguendo* that the Court does enjoy personal jurisdiction over Bristow, all of Lindstedt’s third-party claims against Bristow fail as a matter of law except for Lindstedt’s claim for defamation. (ECF No. 53, PageID. ## 499-503).

On August 24, 2020, Lindstedt emailed to Bristow and mailed to the Court Lindstedt’s Objection to Magistrate’s Recommendation, which has yet to be docketed by the Clerk.

II. LAW & ARGUMENT

Bristow hereby incorporates by reference as if fully set forth herein the factual allegations, legal authorities, legal arguments, and exhibits set forth within or attached to Bristow’s Motion to Dismiss (ECF No. 25, PageID. ## 218-240) and Bristow’s Reply to Lindstedt’s Answer to Bristow’s Motion to Dismiss (ECF No. 33, PageID. ## 282-287).

It is Bristow’s position that the Report and Recommendation (ECF No. 53, PageID. ## 489-503) should be adopted in its entirety, except that the Court should rule that Lindstedt failed to state a claim against Bristow for which relief can be granted as to Lindstedt’s defamation claim.

² Lindstedt emailed a PDF of Lindstedt’s Answer to Bristow, and Bristow drafted and filed Bristow’s Reply to the same before Lindstedt’s Answer was received and docketed by the Court Clerk. This is why Bristow’s Reply pre-dates Lindstedt’s Answer.

According to the Report and Recommendation:

Lindstedt alleges that Bristow defamed him by publishing statements that Lindstedt is a “pedophile” and a “convicted child molester.” ECF Doc. 17 at 32. The essential elements of a defamation claim are: (1) a false statement, (2) that is defamatory, (3) **was published**, (4) injured the plaintiff, and (5) defendant acted with the required degree intent. *Sygula v. Regency Hosp. of Cleveland E.*, 2016-Ohio-2843, 64 N.E.3d 458, ¶16 (8th Dist.). There is little doubt that being called a “pedophile” and a “convicted child molester” are defamatory. Arguably, Lindstedt has sufficiently alleged that Bristow published defamatory statements. Further, one may readily conclude that charging someone who has not been convicted with being a “convicted” child molester is also false and defamatory.

* * *

Here, Lindstedt alleges that Bristow **published** a statement that he was a “convicted child molester.”

(Emphasis added) (ECF No. 53, PageID. # 500).

Mag. Parker was incorrect to determine that Lindstedt pled a viable claim against Bristow for defamation, because Lindstedt never alleges in Lindstedt’s Third-Party Complaint that Bristow published the alleged defamatory statement **to a third-party**. (ECF No. 17; PageID. ## 126-164). Publication to a third-party—and not publication in and of itself—is required for a defamation claim to be viable.

As set forth in *Thomas v. Cohr, Inc.*, 197 Ohio App.3d 145, 2011-Ohio-5916, 966 N.E.2d 915, ¶ 24 (Ohio App. 1st Dist. 2011):

A private person who brings a defamation claim must plead and prove: (1) a false and defamatory statement, (2) about the plaintiff, (3) **published** without privilege **to a third party**, (4) with fault or at least negligence on the part of the defendant, and (5) that was either defamatory per se or caused special harm to the plaintiff.

(Emphasis added.)

In Paragraph 21 of Lindstedt’s Third-Party Complaint (ECF No. 17, PageID. ## 149), Lindstedt merely alleges in a conclusory manner that Bristow called Lindstedt a child molester.

Nowhere in Lindstedt's pleading is it pleaded that Bristow called Lindstedt a "child molester" to a third-party.

A philosophical thought experiment asks, "If a tree falls in a forest and no one is around to hear it, does it make a sound?" This is analogous to the instant issue in the context of defamation jurisprudence: "If someone says something which is defamatory but no one is around to hear it, is it actionable?" The answer is a resounding "No."

Just as it is meaningless as to whether or not a tree makes a noise when it falls in a forest and no one is around to hear it, it is likewise legally meaningless—and not actionable!—for Bristow to allegedly state that Lindstedt is a "child molester" and the same is not alleged to have been published by Bristow to a third-party.

Lastly, the Court should seriously consider imposing, *sua sponte*, Fed. R. Civ. P. 11 sanctions against Lindstedt for filing facially harassing court filings. Lindstedt slurs Bristow as a "homosexual³ pencil-necked geek Aryan whigger lover" (Page 2 of Lindstedt's Objection), Lindstedt accuses Plaintiff Bryan Reo ("Reo") and Bristow of going "ass-to-mouth" with one another (Page 4 of Lindstedt's Objection), Lindstedt derides Reo and Bristow as being "deranged Satanic homosexuals" (Page 4 of Lindstedt's Objection), and Lindstedt disparages Bristow as being "Satan's Spawn" (Page 8 of Lindstedt's Objection). Bristow respectfully submits that the appropriate sanction would be for Lindstedt to show cause—in person before the Court—as to why Lindstedt's pleadings should not be stricken from the record, Lindstedt's counterclaims and

³ Bristow is not now nor has Bristow ever been homosexual. Although the allegations of fact as set forth within a plaintiff's pleading are supposed to be assumed to be true for purposes of a Fed. R. Civ. P. 12(b) motion, Bristow respectfully requests that the Court not write in its Opinion that Bristow is homosexual and/or engaged in a homosexual relationship with Reo based upon the allegations presented by Lindstedt in Lindstedt's pleading. The last thing Bristow would like would be for a federal judge to opine in a written opinion—even as *obiter dictum*—that Bristow is "homosexual." Bristow would never hear the end of it from his friends...

third-party claims dismissed with prejudice, and default entered against Lindstedt and in favor of Reo as to Reo's claims against Lindstedt—due to Lindstedt's morally repugnant court filings which purposefully violate the spirit and letter of Fed. R. Civ. P. 11(b). If Lindstedt fails to show up in person to answer for his misconduct, the Court should consider imposing said sanction against Lindstedt. It would be offensive to principles of civility, common sense, and the American legal system for Lindstedt to not have to answer for Lindstedt's facially harassing court filings which use vicious slurs.

III. CONCLUSION

For the reasons set forth herein, the Report and Recommendation (ECF No. 53, PageID. ## 489-503) should be adopted in its entirety, except that the Court should rule that Lindstedt failed to state a claim against Bristow for which relief can be granted as to Lindstedt's defamation claim.

Respectfully submitted,

BRISTOW LAW, PLLC

/s/ Kyle J. Bristow
Kyle J. Bristow, Esq.
P.O. Box 46209
Mt. Clemens, MI 48046
(T): (248) 838-9934
(F): (586) 408-6384
(E): bristowlaw@gmail.com
Pro se Third-Party Defendant

Dated: August 25, 2020

CERTIFICATE OF SERVICE

I, Kyle J. Bristow, affirm that I am a *pro se* party of the above-captioned civil action, and on August 25, 2020, I electronically filed this document with the Clerk of the Court by using the Court's Electronic Filing System, which should serve notification of said filing to all attorneys of record who are registered to receive such electronic service.

Furthermore, I affirm that on August 25, 2020, I place a true and accurate copy of this document in the United States Mail located in City of Mt. Clemens, Macomb County, State of Michigan, which was addressed to Martin Lindstedt, 338 Rabbit Track Road, Granby, MO 64844.

/s/ Kyle J. Bristow
Kyle J. Bristow, Esq.
P.O. Box 46209
Mt. Clemens, MI 48046
(T): (248) 838-9934
(F): (586) 408-6384
(E): bristowlaw@gmail.com
Pro se Third-Party Defendant

Dated: August 25, 2020