

# ATTORNEY FOR THE COMMONWEALTH



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November 15, 2022

Lieutenant Steve Hall  
Virginia State Police  
Bureau of Criminal Investigation  
General Investigation Section  
1186 E. Lee Highway  
Wytheville, Virginia 24382

VIA EMAIL

RE: Virginia Code §18.2-499  
Marie March Allegations

Dear Lieutenant Hall,

Earlier this year I was appointed a special prosecutor for Pulaski County. My task in this appointment was to determine if enough evidence existed to open a formal investigation into whether or not Virginia Code §18.2-499 was potentially violated with respect to Marie March as the victim.<sup>1</sup>

To assist me in this inquiry, I was provided two separate emails, with attachments provided by Ms. March, from the Virginia State Police Bureau of Criminal Investigations. The first email I received on June 1, 2022 and the second on June 13, 2022. The June 1, 2022 email consisted of 22 pages of what appear to be screenshots, texts, email or social media messages. The June 13, 2022 documents are 27 pages of multiple months of meeting minutes from the New River Resource Authority. The minutes provided tend to focus on an alleged data breach and a discussion of how that would be investigated and handled by the Authority. I discerned such from the portions of the minutes that appeared to be highlighted. Having not been appointed as a special prosecutor to investigate the data breach matter, I have no authority to render any opinion and, thus, will not consider those documents for the review that follows.

When the above referenced documents were provided to the Virginia State Police by Ms. March, she believed that she was the victim of the County Administrator, and others, for a violation of Virginia Code §18.2-499 – Conspiracy to Injure Another in Trade or Profession. This particular code section provides for both criminal penalties as well as civil relief. The code section provides as follows:

- A. Any two or more persons who combine, associate, agree, mutually undertake or concert together for the purpose of (i) willfully and maliciously injuring another in his reputation, trade, business or profession by any means whatever or (ii) willfully and maliciously compelling another to do or perform

<sup>1</sup> While I have had this information and documentation for several weeks, I purposefully waited until after the recent general election to author this letter and provide an opinion. The purpose behind this is because Ms. March is a duly elected member to the Virginia General Assembly and I did not want this letter or opinion to in any way be used for political gain by any individual or party that was on the ballot for election during this cycle.

any act against his will, or preventing or hindering another from doing or performing any lawful act, shall be jointly and severally guilty of a Class 1 misdemeanor. Such punishment shall be in addition to any civil relief recoverable under § 18.2-500.

B. Any person who attempts to procure the participation, cooperation, agreement or other assistance of any one or more persons to enter into any combination, association, agreement, mutual understanding or concert prohibited in subsection A of this section shall be guilty of a violation of this section and subject to the same penalties set out in subsection A.

C. This section shall not affect the right of employees lawfully to organize and bargain concerning wages and conditions of employment, and take other steps to protect their rights as provided under state and federal laws.

The plain reading of this statute requires at least two or more people each acting willfully and maliciously, and each with a common goal (i.e. a conspiracy), to damage a reputation, trade, business or profession.

A thorough review of the materials clearly show a disagreement between Ms. March and the County Administrator as well as the Planning and Zoning Coordinator for Pulaski County. As an outsider, unfamiliar with the government and political landscape of Pulaski County, reading these threads of messages, they seem to center on the fact that Pulaski County officials are attempting to work with Ms. March to secure a business license for the activities conducted at her multi-purpose venue (i.e. The Big Red Barn). The thread appears to be a contentious, back and forth, exchange about the exact activities taking place at this location. In addition, there also appears to be a great deal of concern – perhaps legitimately – regarding the traffic pattern around this venue and the safety concerns that such presents when events are had at this property.

It is clear to me the messages themselves have a coarse, churlish and, at times, an unprofessional tone. However, having read through them on more than one occasion, I cannot find the existence of any conspiracy, or even a hint of one that could be proven, on the part of the Pulaski County officials to harm Ms. March's business, reputation, etc. that would violate this statute. Further, I firmly believe it is the absolute duty of the Pulaski County officials to ensure that all business owners operate by the same rules; and that includes being properly licensed by the county to conduct business. Thus, the fact that the County Administrator properly, and politely, notified Ms. March of her need for a business license, and any potential ramifications of operating without one may bring, is certainly not illegal and could in no way be viewed as a way to injure her reputation, business, etc.

The bottom line, from my perspective and legal opinion, is that Virginia Code §18.2-499 has no application to these facts. I can find nothing in the provided documents that would offer even reasonable suspicion, much less probable cause, and certainly not proof beyond a reasonable doubt, for a violation of this statute. Therefore, unless additional, legally admissible, evidence is brought forward concerning this matter, no further action or resources need to be devoted to this complaint. As always, should reliable and admissible evidence be produced at a later date, I would be more than willing to reconsider the facts and apply it to the current legal standards.

In closing, while elected to serve the citizens of Henry County, I am grateful and privileged to serve the citizens of Pulaski County in this capacity as a special prosecutor. Should anyone have any further questions, concerns or desire to discuss this matter further, they are welcome to reach out to me directly. Until then, I remain,

Very Truly Yours,



M. Andrew Nester

C: The Honorable Justin Griffith, Commonwealth's Attorney for Pulaski County