

**IN THE CIRCUIT COURT
FOR HAMILTON COUNTY TENNESSEE**

JACQUELINE HELBERT,

Plaintiff

v.

NO:

Jury Demanded

**UNIVERSITY OF TENNESSEE
(AT CHATTANOOGA);
GEORGE HEDDLESTON, individually; AND
CHARLES CANTRELL, individually.**

Defendants.

COMPLAINT

COMES NOW the Plaintiff, Jacqueline Helbert. She shows for her
Complaint:

I. PARTIES, JURISDICTION AND VENUE

- 1.** The Plaintiff is Jacqueline (“Jacqui”) Helbert, who resides in Chattanooga which is in Hamilton County, Tennessee.
- 2.** The Defendant is the University of Tennessee, a state entity and employer of Helbert, which accepts state and federal funding.
- 3.** The individual Defendants are George Heddleston and Charles (“Chuck”) Cantrell, both residents of Hamilton County who were decision-makers and made the termination decision on behalf of UTC. They are sued

in their individual capacities.

4. Jurisdiction is proper under the Tennessee Constitution and the civil laws of the state of Tennessee.

5. Venue is proper in Hamilton County as the Defendant may be found here in Hamilton County where it operates the University of Tennessee at Chattanooga (UTC). It also employed the Plaintiff here, and the causes of action arose here.

II. FACTS

6. Jacqui Helbert was a relatively new, six-month, employee at the University of Tennessee at Chattanooga. She worked for WUTC, Chattanooga's National Public Radio station, which is licensed to UTC and is located on its campus. Ms. Helbert worked as a reporter and broadcast assistant.

7. WUTC operates twenty four hours per day. It has both a radio and print format, with readers and listeners in Tennessee, North Carolina, and Alabama. It is an affiliate of National Public Radio, Public Radio International, and American Public Media. WUTC is the area source for popular programming including "Morning Edition," "Day to Day," "All Things Considered," "A Prairie Home Companion," and "Car Talk," among others. Its website, www.wutc.org, bills itself as: "Essential news. Eclectic music. We're Chattanooga's NPR station."

WUTC REPORTS ON TENNESSEE'S "BATHROOM BILL" AND A "GAY STRAIGHT ALLIANCE"

8. “Gay Straight Alliances,” or GSAs, are student-run clubs typically formed in high schools. They provide a safe place for students to meet, support each other, talk about issues relating to sexual orientation, gender identity issues, and work to end homophobia and transphobia. www.gsanetwork.org. One such GSA, of many, exists in Cleveland, Tennessee.

9. In March of 2017, the Cleveland GSA planned to meet with state legislators during “Advancing Equality Day” at the Capitol in Nashville. That same day, legislators would be voting on a so-called “Bathroom bill” which would require students to use the bathroom corresponding to their sex on their “original birth certificate.”

10. WUTC had Ms. Helbert cover the meeting between the Cleveland GSA and Tennessee state lawmakers.

11. Ms. Helbert, along with the GSA students, arrived in Nashville on March 7, 2017. The first meeting was with Republican Senator Mike Bell in his public office space where he meets constituents. Senator Bell, a graduate of Cleveland State Community College, represents Bradley, McMinn, Meigs, Monroe and Polk Counties.

12. There is no dispute that Ms. Helbert did not verbally announce “I am a reporter,” or “I work for an NPR affiliate,” or words of that substance. Rather, she greeted Senator Bell wearing a lanyard stating “WUTC” with her press credentials. She also wore large headphones, visible gear with

wires, a satchel and recorder, and a large fuzzy microphone. She looked, in her words, “*cartoonishly* like a reporter.”

13. The meeting with Senator Bell lasted just over nine (9) minutes and it was recorded by Ms. Helbert.

14. In the meeting, the student President of Cleveland’s GSA began the meeting by asking Senator Bell his view of the Tennessee “Bathroom Bill” and “how it would affect us.”

15. Senator Bell said he was a “strong supporter” of the bill. He began by citing an alleged news story about a transgendered person from Oregon who “demanded to be placed in a female prison and after three months they had to take him out because he was having sex with all the female prisoners.”

16. “My question,” Senator Bell went on, is “how do you define it? Is it how I feel on Monday? [What if] I feel different on Tuesday? And on Wednesday I might feel like a dog.”

17. When the students posed questions of science and genetics, Senator Bell said he had never seen any science to back this up. He added: “My office mate is a doctor who thinks it’s all hogwash.”

18. Some of the students were shocked that *a state Senator* would discuss such a serious topic through a “prisoner having sex with all the female prisoners,” to “feel[ing] like a dog,” and that the science is “hogwash.”

19. After meeting with Senator Bell, the students next met with

Representative Kevin Brooks, a Republican representing Bradley County who graduated from Lee University in Cleveland, Tennessee. Again, the meeting was brief and recorded by Ms. Helbert.

20. Mr. Brooks was very friendly to the students. He began by saying: “Okay, I’m Kevin. How can I help?”

21. Unlike Senator Bell, Representative Brooks immediately said “That’s crazy,” in reference to the Bathroom bill. He said the Tennessee General Assembly “shouldn’t be in the bathroom bill business” and that it should be left to school superintendents. He added that superintendents tell legislators in conversation, “We currently don’t have a problem. So don’t bring us a solution in search of a problem.”

22. Representative Brooks thanked the students for their “incredible courage and bravery” and said “you’re all my people.” He said the bill probably would not ever come out of committee but if it does, he “probably will not support it.”

WUTC PREPARES THE STORY

23. Back in Chattanooga after the trip to Nashville, Ms. Helbert shared the interviews with her WUTC/UTC superiors, News Director, Mike Miller, and Director of Development and Underwriting, Mary Ollie Newman, both veterans of the news media.

24. Ms. Helbert asked how WUTC should handle Senator Bell’s statements. She worried his comments were so crude that, if reported

accurately, it might appear to some readers or listeners that WUTC was pushing an agenda or not being objective. Mr. Miller assured her that reporters report the truth and that includes accurately reporting “ignorant rednecks.” Ms. Newman agreed, expressing shock over how Senator Bell handled himself.

25. On March 9, 2017, the story aired on WUTC and the program “All Things Considered.” The story included statements from both Senator Bell and Representative Brooks. WUTC received substantial web traffic, comments, and media shares on social media. On March 10, 2017, an online version of the story was published. The story received more web hits than any past news story.

26. On March 13, 2017, Mr. Miller complimented Ms. Helbert on the job well done, telling her “this is why we hired you.” He added that Senator Bell himself was aware of the story and had called the station and left a message for a return call.

27. Two days later, March 15, 2017, Mr. Miller addressed for the first time the formal rules about interviewing. Years ago, he said, WUTC required interview subjects to fill out and sign paper forms similar to a waiver, but that practice is no longer used. However, Mr. Miller advised Ms. Helbert not to assume that microphones or badges are sufficient notice of an interview and that “verbal consent” needs to be obtained. Mr. Miller complimented Ms. Helbert for the job she was doing and stated he was not

even criticizing her. Mr. Miller closed by directing Ms. Helbert (for the first time in her employment that she could recall) to an NPR ethics handbook.

28. Ms. Helbert read the NPR ethics handbook and discovered it does not require media to obtain verbal consent. Rather, more broadly, it says to “identify ourselves as NPR journalists when we report.”¹ It was at this point that Ms. Helbert began to sense retaliation for the story may occur to persons at WUTC.

UTC CHANCELLOR’S OFFICE

29. Later that day, March 15, 2017, Mr. Miller advised Ms. Helbert via email that “We need to meet and talk tomorrow morning. Members of the UTC Chancellor’s executive team have contacted us with a list of questions re: the GSA story.” Mr. Miller included a list of questions from the Chancellor Steven Angle’s office, something outside the normal scope of inquiry.

30. The list of questions clearly focused on why WUTC was covering this particular group (Cleveland GSA) and story. Questions from the Chancellors office included: (1) “How did Jackie [sic] get connected with this student group?” (2) “How are assignments made to UT reporters?” (3) “Was she assigned this assignment by WUTC?” and (4) “What are WUTC reporters

¹ The NPR handbook also addresses situations “where the story [is] so important we might consider the use of a hidden microphone,” such as a story of “profound importance,” where lives are at stake, where information can be obtained no other way, or whether the story would suffer otherwise. <http://ethics.npr.org/category/d-honesty/>

told as far as identifying themselves and what they say to people whom they are interviewing in relation to being taped and how the information may be used?"

31. Mr. Miller consulted with Ms. Helbert and together they answered the questions, including a defense of what occurred: "Ms. Helbert's microphone was clearly visible to the legislators as she recorded them speaking to crowds of students. She also wore a media badge that identified her as a WUTC reporter and was carrying a bag with WUTC's logo. She did not verbally identify herself as a journalist, believing her press badge, large headphones and visible microphone made it clear she was a reporter."

32. Mr. Miller, with Ms. Helbert's input, added, "Because Senator Bell and Representative Brooks were speaking in their official capacity as elected officials, addressing policy issues to a group, she considered their conversations to be on-the-record."

33. Mr. Miller stated that "she has been instructed to verbally identify herself as a WUTC journalist in future situations, in addition to wearing her press badge." The information was turned over to Chancellor Angle's office.

UTC'S FEAR OF BLACKMAIL AND RETALIATION BY LAWMAKERS

34. Later on March 15, 2017, Mr. Miller emailed Ms. Helbert as well as Mary Ollie Newman. He warned that Representative Brooks may be unhappy about being viewed as "gay friendly" in the news story and losing

voter support in his home jurisdiction. He added that lawmakers are meeting with UTC officials and might threaten to cut state funding.

35. Mr. Miller said that, traditionally, WUTC had not shied from political topics but, “Not anymore. Not with Chuck at the helm [a reference to the new Director, Defendant Cantrell].” Mr. Miller closed his email by advising Ms. Helbert to “hang on to the raw audio of your GSA interviews.”

36. The following day, March 16, 2017, Mary Ollie Newman met with Ms. Helbert and Mr. Miller. Ms. Newman advised that legislators from Hamilton County, including Senator Todd Gardenhire, Republican of Chattanooga, paid a visit to the UTC Chancellor’s office. He referenced bills UTC bills to be paid and, in the same conversation, referenced the news story including that Senator Bell saw Ms. Helbert’s headphones but not the fuzzy microphone.

37. On March 17, 2017, Mary Ollie Newman met with Ms. Helbert and Mr. Miller again. She said she had spoken to UTC Chancellor Steven Angle’s Chief of Staff, Terry Denniston. Ms. Newman advised that Senator Gardenhire and others may use the story to “lash out” at UTC because he was “just annoyed by proxy.” The perceived viewpoint of the story, and the quoted words of his colleagues, drew his ire. Per UTC, the news story was indeed coupled with Gardenhire’s meeting with UTC officials.

38. That evening, March 17, 2017, Ms. Newman met with Mr. Miller and Ms. Helbert yet again. Ms. Newman offered further information received

from Chancellor Angle's Chief of Staff, Ms. Denniston. Ms. Newman offered that the Denniston information was reliable because Ms. Newman and Ms. Denniston were long-time friends with a bond. Ms. Newman warned the matter is now "serious" and "these fellas are just unbelievable."

39. In response, Ms. Helbert stated the obvious to Ms. Newman: It is "highly unethical that they [lawmakers] are threatening to hold money from the University." Ms. Helbert believed this amounted to blackmail.

40. Ms. Newman agreed, but instructed Ms. Helbert never to repeat it. Ms. Newman instructed Ms. Helbert that the information shared from Chancellor Angle's office must remain "confidential" and that the legislators "are just a different breed."

41. Clearly, behind the scenes at the highest level of UTC, the lines were being drawn, with WUTC being told by Chancellor Angle's office that state legislators were threatening to withhold money from UTC due to an unflattering news story; while WUTC stood behind the story and the actions of its reporter.

42. On March 21, 2017, Ms. Newman and Mr. Miller met with Ms. Helbert yet again. Ms. Newman stated that UTC was operating under a "conflict of interest," explaining that UTC is taking "\$50 million dollars from the state" and being subjected to "blackmailing."

43. Mr. Miller added that Chancellor Angle's Chief, Ms. Denniston, advised him directly that the lawmakers were now talking about defunding

WUTC (which would cost everyone their jobs).² Ms. Newman added that Ms. Denniston referenced withholding money from UTC more broadly, millions of dollars. Plainly, the Chancellor's office was concerned about retaliation from state lawmakers.

44. Around 3:00 p.m. on March 21, 2017, Mr. Miller instructed Ms. Helbert that she must report to UTC's office of Human Resources at 4:00 p.m. There, Senior Associate Vice Chancellor of Marketing and Communications, George W. Heddleston, and Laure Pou of Human Resources, awaited Ms. Helbert. When she arrived, they terminated her employment, *claiming* she violated NPR Standards of Journalism in the NPR Ethics Handbook.

45. The decision to terminate was made by and between Defendants George Heddleston of UTC and Charles Cantrell of WUTC. Cantrell was conspicuously absent, avoiding talking to Ms. Helbert, Mr. Miller, or Ms. Newman.

46. After Ms. Helbert's termination, UTC had Ms. Helbert's story removed from the WUTC website.

PRETEXT

47. Journalism standards at NPR, or verbally announcing one's press

² These defunding talks were taken seriously given recent history. In 2016, Governor Haslam allowed a Senator Gardenshire-supported bill removing all budget funds from the University of Tennessee Office of Diversity and Inclusion to become law. The UT Knoxville Chancellor Jimmy Cheek issued a statement: "It saddens me to share with you that a new state law requires us to defund the Office of Diversity and Inclusion."

credentials, is not the *true* reason or motive underlying Ms. Helbert's termination. It is the pretext.

48. Rather, Defendants Heddleston, Cantrell, and UTC intentionally sacrificed a reporter, Ms. Helbert, because she accurately reported the inflammatory and embarrassing words of one legislator and the truthful but unpopular words of another, then along with her superiors, defended her actions to UTC. Sadly, UTC chose self-preservation through retaliation over honesty.

49. Instead of standing up to fear of blackmail and standing up for freedom of the press, Defendants Heddleston, Cantrell, and UTC paid the blackmail forward, retaliating against Ms. Helbert. They invoked a "journalistic standard" upon which Ms. Helbert did not know and was not trained, that NPR's ethics manual does not teach, which compels verbal speech in a traditionally open forum, and for which Ms. Helbert already had been coached by her superior without the need for any further reprisal.

50. UTC's stated reason of lack of "verbal consent" was not even supported by Ms. Helbert's own superiors at WUTC, Mr. Miller and Ms. Newman. In sum, Mr. Miller and Ms. Newman:

- Never previously instructed or trained Ms. Helbert to obtain verbal consent;
- Gave her an NPR ethics handbook which does *not* require verbal consent for interviews;
- Agreed that she did not disguise the interview in any manner as it was open and obvious;

- Told her she was doing a great job;
- Advised the story must run and to report an “ignorant redneck”
- Actually told the Chancellor she identified herself with “her press badge, large headphones and visible microphone [to make it] clear that she was a reporter”; and
- Warned about coming “blackmail” in some form—funding denial, or cancellation of the station (but, as it turned out, Helbert became the sacrificial lamb).

RETALIATION CONFIRMATION

51. After the termination, Ms. Helbert returned to WUTC where she again spoke to Mr. Miller and Ms. Newman. They appeared stunned.

52. Mr. Miller stated the termination was done purely for fear of funding cuts (retaliation/blacackmail) by UTC *not* for any stated integrity of journalistic standards.

53. UTC’s deceit has harmed Ms. Helbert whose record now shows, at 32, that she was fired for violating journalistic standards in her role as a reporter. This was devastating to Ms. Helbert.

54. NPR attempted to repair some of UTC’s damage. It condemned the actions by UTC, stating that a failure to verbally announce is a matter NPR should have been involved in with respect to any discipline of a WUTC employee, that it was not a fireable offense, and, in any event, Ms. Helbert’s credentials and recording equipment were obvious signs.

55. This case features a number of important aspects of public life and

government: (A) public officials speaking in public forums on Capitol Hill on matters of public policy should anticipate their actual words matter regardless of whether “verbal identification” from a reporter is compelled; (B) top public University officials do face veiled threats of blackmail by state officials to control matters of the press; (C) how University officials can make the *wrong* choice of surrendering to threats of blackmail rather than supporting free press and their reporter; and last but not least, (D) as WUTC recognized, and UTC will now, Jacqui Helbert is one outstanding reporter.

III. LEGAL CAUSES OF ACTION

56. Plaintiff incorporates the foregoing facts.

57. Free Speech and Press. Under Tennessee’s state constitution: “[t]he free communication of thoughts and opinions, is one of the invaluable rights of man, and every citizen may freely speak, write, and print on any subject, being responsible for the abuse of that liberty.” Tenn. Const. art. I, § 19.

58. Plaintiff enjoys a constitutional right under Tennessee’s constitution to the exercise of freedom of speech and press, free from interference by state actors.

59. Defendants, acting under color of state law, have violated Plaintiffs’ constitutional rights and acted with deliberate indifference to her rights through intimidation and, eventually, termination of employment. The actions were taken based on the content of her news story and they chilled

her constitutional rights.

60. Additionally, Defendants have engaged in unnecessarily “compelled speech” by demanding a reporter verbally announce herself in a state legislative conference room to state legislators, in a group setting, which is a traditionally open forum, thus violating Plaintiffs’ constitutional rights.

61. Retaliation. Plaintiff has also suffered retaliation through intimidation and termination of employment. The publication of the news story was constitutionally protected activity under the Tennessee constitution and Defendants retaliated against Plaintiff through intimidation and, eventually, termination of employment.

62. PEPFA. WUTC/UTC has violated the Public Employee Political Freedom Act, Tenn. Code Ann. § 8-50-603(a), which protects Ms. Helbert’s right, as a public employee, to communicate with elected public officials.

63. Plaintiff seeks damages to include reinstatement, apology, education and training about the laws violated, lost wages, harm for the emotional distress from the retaliatory firing, reasonable attorneys’ fees and costs, and any further relief appropriate to the circumstances.

64. Plaintiff demands a jury.

65. If an *ad damnum* amount is required, Plaintiff requests an amount to be determined by jury, in its proper discretion, and not to exceed one million (\$1,000,000) dollars.

Respectfully submitted,

GILBERT RUSSELL McWHERTER
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ATTORNEYS FOR PLAINTIFF

COST BOND

We stand as sureties for costs which may be incurred in this action in an amount not to exceed \$1,000.00.

**GILBERT RUSSELL McWHERTER
SCOTT BOBBITT PLC**

Justin S. Gilbert