

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION**

BRETT LORENZO FAVRE

PLAINTIFF

VS.

CIVIL ACTION NO.: 2:23-CV-00042-KS-MTP

SHANNON SHARPE

DEFENDANT

DEFENDANT’S MOTION TO DISMISS

Pursuant to Fed. R. Civ. P. 12(b)(6), Defendant Shannon Sharpe (“Sharpe” or “Defendant”), by and through his counsel of record, respectfully moves this Court to dismiss the Complaint filed by Plaintiff Brett Lorenzo Favre (“Favre” or “Plaintiff”).

In this defamation action, Favre has sued Sharpe, an NFL Hall of Fame tight end and the co-host of a daily sports debate show, over opinions Sharpe expressed on his show about Favre’s widely-reported involvement in the Mississippi welfare fraud scandal. Favre’s claims should be dismissed because: (1) Sharpe’s choice of language challenged here is a classic example of the kind of rhetorical hyperbole and loose, figurative language entitled to full protection from liability under the First Amendment and Mississippi law; (2) Mississippi law protects Sharpe’s right to make critical and even caustic comments regarding Favre’s involvement in a matter of public concern: the mispending of welfare funds intended for poor Mississippi families; and (3) Favre failed to comply with Mississippi’s retraction statute, Miss. Code Ann. § 95-1-5, in filing suit before the statutorily-mandated waiting period of 10 days. For these reasons, Favre’s defamation complaint is incurably defective and should be dismissed with prejudice.

In addition to Defendant’s contemporaneously filed Memorandum in Support of Motion to Dismiss, Defendant’s Motion is also supported by the following attached Exhibits:

- (a) Press Release, Mississippi Office of the State Auditor, Auditor Demands Repayment of Misspent Welfare Money – Multiple Audits Now Confirm Millions of Dollars Intended for the Poor Were Spent Illegally (Oct. 12, 2021), <https://www2.osa.ms.gov/news/auditor-demands-repayment-of-misspent-welfare-money/#more-2355>, Attached as Exhibit “A”;
- (b) Complaint in *Mississippi Department of Human Services v. Mississippi Community Education Center, Inc., et al.*, Case No. 25 CI 1:22-cv-00286-EFP, Docket No. 2 (Hinds Cty. Cir. Ct. May 9, 2022), Attached as Exhibit “B”;
- (c) First Amended Complaint in *Mississippi Department of Human Services v. Mississippi Community Education Center, Inc., et al.*, Case No. 25 CI 1:22-cv-00286-EFP, Docket No. 197 (Hinds Cty. Cir. Ct. May 9, 2022), Attached as Exhibit “C”;
- (d) County Circuit Court Order Denying Defendant Brett Lorenzo Favre’s Motion to Dismiss the Amended Complaint, Case No. 25 CI 1:22-cv-00286-EFP, Docket No. 352 (Hinds Cty. Cir. Ct. April 24, 2022), Attached as Exhibit “D”;
- (e) Anna Wolfe, *Former Gov. Embattled welfare group paid \$5 million for new USM volleyball center*, Mississippi Today, Feb, 27, 2020, <https://mississippitoday.org/2020/02/27/welfare-program-paid-5-million-for-new-volleyball-center/>, Attached as Exhibit “E”;
- (f) *Auditor: Brett Favre Received \$1.1M In Welfare Funds For Speeches He Never Gave*, CBS News, May 4, 2020, <https://www.cbsnews.com/minnesota/news/auditor-brett-favre-received-1-1m-in-welfare-funds-for-speeches-he-never-gave/?intcid=CNM-00-10abd1h>; Ken Dilanian & Laura Strickler, *The nation’s poorest state used welfare money to pay Brett Favre for speeches he never made*, NBC News, Sept. 1, 2022, <https://www.nbcnews.com/politics/politics-news/nations-poorest-state-used-welfare-money-pay-brett-favre-speeches-neve-rcna45871>; *Former Mississippi governor helped Brett Favre obtain welfare funds for university volleyball stadium, texts show*, ESPN, Sept. 13, 2022, <https://www.espn.com/nfl/story?id=34588657&slug=former-mississippi-governor-helped-brett-favre-obtain-welfare-funds-university-volleyball-stadium-texts-show> (representative articles), Attached as Exhibit “F”;
- (g) Anna Wolfe, *Former Gov. Phil Bryant helped Brett Favre secure welfare funding for USM volleyball stadium, texts reveal*, Mississippi Today, September 13, 2022, <https://mississippitoday.org/2022/09/13/phil-bryant-brett-favre-welfare>, Attached as Exhibit “G”;

- (h) Complaint in *Brett Lorenzo Favre v. Shannon Sharpe*, Attached as Exhibit “H”;
- (i) Video Disc of September 14, 2022 Episode of *Undisputed*, Attached as Exhibit “I”;
- (j) Certified Transcript of the Broadcast, Attached as Exhibit “J”;
- (k) February 3, 2023 Letter from Kasowitz Benson Torrese, LLP, Attached as Exhibit “K”.

For the reasons set forth in Defendant’s Memorandum, as supported by the attached exhibits, Sharpe respectfully requests that the Court grant his Motion to Dismiss and that Favre’s Complaint be dismissed with prejudice, with all costs taxed to the Plaintiff, and that Defendant be awarded any additional relief that the Court deems proper.

Dated: May 3, 2023

Respectfully submitted,

BY: /s/ D. Michael Hurst, Jr.

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**ATTORNEYS FOR DEFENDANT
SHANNON SHARPE**

CERTIFICATE OF SERVICE

I, D. Michael Hurst, Jr., do hereby certify that on May 3, 2023 I electronically filed this ***MEMORANDUM IN SUPPORT OF MOTION TO DISMISS*** with the Clerk of the Court using the CM/ECF system which sent notification of such filing to all counsel of record.

This the 3rd day of May, 2023.

/s/ D. Michael Hurst, Jr.
D. Michael Hurst, Jr.