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# **SUPREME COURT OF ALABAMA**

**OCTOBER TERM, 2023-2024**

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**SC-2023-0062**

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**Ex parte M.E.J.**

**PETITION FOR WRIT OF MANDAMUS**

**(In re: M.T.C.**

**v.**

**M.E.J.)**

**(Jefferson Circuit Court: CV-22-902117)**

COOK, Justice.

In this defamation action, M.E.J. filed a motion to dismiss based on

a lack of personal jurisdiction. The Jefferson Circuit Court denied M.E.J.'s motion. She now petitions this Court for a writ of mandamus directing that court to vacate its order and to enter an order dismissing the action. Because M.E.J. lacks sufficient minimum contacts with Alabama and maintenance of this action would offend traditional notions of fair play and substantial justice, we grant the petition and issue the writ.

#### Facts and Procedural History

M.E.J. was a clerical worker and assistant for M.T.C. while he was serving as the lead pastor at a church in Washington. M.E.J. has made accusations that, on April 29, 2019, while she was attending a leadership event at the church, M.T.C. raped her. At some point after the alleged incident, M.T.C. left his position at the Washington church and accepted a position at a church in Birmingham.

Upon learning that M.T.C. had accepted a new position at the Birmingham church, M.E.J. contacted the new pastor at the Washington church to express her concerns about M.T.C.'s preaching at the Birmingham church. At that time, her pastor had already been in contact with the senior pastor at the Birmingham church about M.T.C.'s alleged

rape of M.E.J. M.E.J.'s pastor encouraged her to reach out directly to the senior pastor at the Birmingham church and to put her allegations against M.T.C. in writing. According to M.E.J., she would not have considered reaching out to the senior pastor at the Birmingham church had her pastor not encouraged her to do so.

On July 13, 2021, M.E.J. mailed a letter to the senior pastor at the Birmingham church in which she stated:

"I wanted to notify you that on April 29th of 2019, Pastor [M.T.C.] raped me in my office during a leadership event. I don't say that lightly or naively assume you will take action.

"My motive for reaching out to you is only in that I deeply love the Church. I type that with tears in my eyes because it's something that I've clung to and had to fight for these last few years. I have so much respect for you and what you have built. Your sermons have helped mature my own faith. I humbly acknowledge the ramifications of this statement, but in the same breath, I have been carrying this for two years too long. I am trying to actively pursue God, build his Church and raise my daughter and keeping this to myself is further adding to the hurt. My hope is that God would bring healing, restoration and use this for His glory.

"I don't have any specific expectations of what you will do with this information but I am blindly believing that you will do what's best for the people of your church. You could throw this letter in the garbage and I would never know. Regardless, my plan is to tell the truth. I want to show you honor in letting you know, again, because I honor what you've done and who you are in the body of Christ. I am going to tell the truth, and I don't think I will ever stop, but I don't want that to

negatively affect you or your ministry."

According to M.E.J., the senior pastor at the Birmingham church responded to her letter but had no additional contact with her after that.<sup>1</sup>

A few days after she sent the above letter to the senior pastor at the Birmingham church, on July 21, 2021, M.E.J. published a blog post on an online forum in which she recounted the alleged rape by M.T.C. She did not, however, mention M.T.C. by name or give any details about where the alleged incident took place.

In July 2022, M.T.C. commenced the present defamation action against M.E.J. in the Jefferson Circuit Court. In his complaint, M.T.C. alleged that, in both her blog post and her letter to the senior pastor at the Birmingham church, M.E.J. falsely accused him of rape and that, as a result of her "false" accusation, he has "lost his employment and reputation in the community," "has been made to suffer mental anguish and torment as well as humiliation and embarrassment," and "has lost paid publishing contracts and other paid speaking engagements." M.T.C. sought punitive damages and \$500,000 in compensatory damages.

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<sup>1</sup>A copy of that response letter was not included as an exhibit to M.E.J.'s mandamus petition.

In September 2022, M.E.J. moved to dismiss M.T.C.'s action against her pursuant to Rule 12(b)(2), Ala. R. Civ. P., for lack of personal jurisdiction. In her motion, M.E.J. argued, among other things, that the trial court lacked personal jurisdiction over her because she did not have "substantial, continuous, or systematic" contacts with Alabama; she did not purposefully avail herself of the privilege of conducting activities in Alabama; the action did not relate to her activities in Alabama; and the exercise of jurisdiction over her would not comport with "traditional notions of fair play and substantial justice."

In support of her motion to dismiss, M.E.J. attached a copy of her affidavit in which she admitted that she had sent a letter to the senior pastor at the Birmingham church in which she accused M.T.C. of raping her but stated that she had had no further contact with that pastor, his employees, or any other resident of Alabama after sending that letter. She also stated that she has no personal connection to Alabama, does not transact any business here, has no property here, and has never set foot in Alabama. In addition to her affidavit, M.E.J. also attached a copy of the letter that she had sent to the senior pastor of the Birmingham church and a copy of her blog post.

In his response in opposition to M.E.J.'s motion, M.T.C. argued, among other things, that M.E.J. had "'purposefully availed' herself of the privilege of conducting activities [in] the State of Alabama" when she "chose this State to purposefully disparage [M.T.C.]." He argued that the fact that M.E.J. is a resident of Washington was irrelevant because her decision to mail a letter to his new employer at the church in Birmingham was enough to establish personal jurisdiction over her. He also argued that, contrary to M.E.J.'s contention, requiring him to pursue his defamation action against her in Washington as opposed to Alabama -- the state to which the letter at issue was sent -- would not comport with "fair play and substantial justice." In support of his response, M.T.C. attached only a copy of the letter that M.E.J. had sent to the senior pastor at the Birmingham church.

In her reply to M.T.C.'s response in opposition to her motion to dismiss, M.E.J. reiterated her arguments that the trial court lacked personal jurisdiction over her. She also argued that, contrary to M.T.C.'s contentions, she did not "purposefully avail" herself of the privilege of conducting activities in Alabama, noting that she had sent the letter to the senior pastor in Birmingham only after being encouraged to do so by

her pastor in Washington, who had already been in contact with the pastor in Birmingham concerning the alleged rape. In support of her reply, M.E.J. attached a copy of her pastor's affidavit and an amended copy of her own affidavit in which she stated that, had her pastor in Washington not encouraged her to do so, she never would have mailed her letter to the senior pastor of the Birmingham church.

The trial court held a hearing on M.E.J.'s motion.<sup>2</sup> Following that hearing, the trial court issued an order denying the motion.<sup>3</sup> This mandamus petition followed.

#### Standard of Review

This Court has recently stated:

""[A] petition for a writ of mandamus is the proper device by which to challenge the denial of a motion to dismiss for lack of in personam jurisdiction. See Ex parte McInnis, 820 So. 2d 795 (Ala. 2001); Ex parte Paul Maclean Land Servs., Inc., 613 So. 2d 1284, 1286 (Ala. 1993). "An appellate court considers de novo a trial court's judgment on a party's motion to dismiss for lack of personal jurisdiction." Ex parte Lagrone, 839 So. 2d 620, 623 (Ala. 2002) (quoting Elliott v. Van

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<sup>2</sup>A transcript of that hearing was not included as an exhibit to the petition.

<sup>3</sup>The trial court's order did not include either the factual or legal findings on which the trial court's decision was based.

Kleef, 830 So. 2d 726, 729 (Ala. 2002)). Moreover, '[t]he plaintiff bears the burden of proving the court's personal jurisdiction over the defendant.' Daynard v. Ness, Motley, Loadholt, Richardson & Poole, P.A., 290 F.3d 42, 50 (1st Cir. 2002)."

"'Ex parte Dill, Dill, Carr, Stonbraker & Hutchings, P.C., 866 So. 2d 519, 525 (Ala. 2003).

"'"In considering a Rule 12(b)(2), Ala. R. Civ. P., motion to dismiss for want of personal jurisdiction, a court must consider as true the allegations of the plaintiff's complaint not controverted by the defendant's affidavits, Robinson v. Giarmarco & Bill, P.C., 74 F.3d 253 (11th Cir. 1996), and Cable/Home Communication Corp. v. Network Productions, Inc., 902 F.2d 829 (11th Cir. 1990), and "where the plaintiff's complaint and the defendant's affidavits conflict, the ... court must construe all reasonable inferences in favor of the plaintiff." Robinson, 74 F.3d at 255 (quoting Madara v. Hall, 916 F.2d 1510, 1514 (11th Cir. 1990)).'"

"'Wenger Tree Serv. v. Royal Truck & Equip., Inc., 853 So. 2d 888, 894 (Ala. 2002) (quoting Ex parte McInnis, 820 So. 2d 795, 798 (Ala. 2001)). However, if the defendant makes a prima facie evidentiary showing that the Court has no personal jurisdiction, "the plaintiff is then required to substantiate the jurisdictional allegations in the complaint by affidavits or other competent proof, and he may not merely reiterate the factual allegations in the complaint." Mercantile Capital, LP v. Federal Transtel, Inc., 193 F. Supp. 2d 1243, 1247 (N.D. Ala. 2002) (citing Future Tech. Today, Inc. v. OSF



Healthcare Sys., 218 F.3d 1247, 1249 (11th Cir. 2000)). See also Hansen v. Neumueller GmbH, 163 F.R.D. 471, 474-75 (D. Del. 1995) ("When a defendant files a motion to dismiss pursuant to Fed. R. Civ. P. 12(b)(2), and supports that motion with affidavits, plaintiff is required to controvert those affidavits with his own affidavits or other competent evidence in order to survive the motion.") (citing Time Share Vacation Club v. Atlantic Resorts, Ltd., 735 F.2d 61, 63 (3d Cir. 1984)).'"

Ex parte Bradshaw, 328 So. 3d 236, 239-40 (Ala. 2020) (quoting Ex parte Covington Pike Dodge, Inc., 904 So. 2d 226, 229-30 (Ala. 2004)).

### Discussion

In her mandamus petition, M.E.J. argues that M.T.C. failed to meet his burden of showing that she had sufficient contacts with Alabama to establish personal jurisdiction over her. Specifically, M.E.J. argues that M.T.C. failed to demonstrate that she had "substantial, continuous, or systematic" contacts with Alabama before the commencement of the present action. She further contends that M.T.C. failed to demonstrate that she had purposefully availed herself of the privilege of conducting activities in Alabama; that the action related to her activities in Alabama; and that the exercise of jurisdiction over her would comport with the "traditional notions of fair play and substantial justice."

The issue of personal jurisdiction "'stands or falls on the unique

facts of [each] case.'" Ex parte I.M.C., Inc., 485 So. 2d 724, 725 (Ala. 1986) (quoting and adopting trial court's order). As noted above, it is the burden of the plaintiff to establish personal jurisdiction regardless of whether the form of personal jurisdiction is alleged to be general or specific. See Branded Trailer Sales, Inc. v. Universal Truckload Servs., Inc., 74 So. 3d 404, 409 (Ala. 2011); and Facebook, Inc. v. K.G.S., 294 So. 3d 122, 130 (Ala. 2019).

Alabama's long-arm rule extends the personal jurisdiction of our courts to the limits of due process under the United States and Alabama Constitutions. As our Court has recently explained:

"'Jurisdiction over out-of-state defendants is acquired pursuant to Rule 4.2(b), Ala. R. Civ. P., which provides, in pertinent part:

"'"An appropriate basis exists for service of process outside of this state upon a person or entity in any action in this state when the person or entity has such contacts with this state that the prosecution of the action against the person or entity in this state is not inconsistent with the constitution of this state or the Constitution of the United States...."

"'In other words, "[t]his rule extends the personal jurisdiction of Alabama courts to the limit of due process under the United States and Alabama Constitutions." Hiller Invs., Inc. v. Insultech Group, Inc., 957 So. 2d 1111, 1115 (Ala. 2006). Under this rule, the exercise of jurisdiction is appropriate so

long as the out-of-state defendant has "'some minimum contacts with this state [so that] ... it is fair and reasonable to require the person to come to this state to defend an action.'" Dillon Equities v. Palmer & Cay, Inc., 501 So. 2d 459, 461 (Ala. 1986) (quoting former Rule 4.2(a)(2)(I), Ala. R. Civ. P.).'"

Ex parte Bradshaw, 328 So. 3d at 240 (quoting Ex parte McNeese Title, LLC, 82 So. 3d 670, 673 (Ala. 2011)) (emphasis added).

"Depending on the quality and quantity of the contacts, jurisdiction may be either general or specific." Ex parte Dill, Dill, Carr, Stonbraker & Hutchings, P.C., 866 So. 2d 519, 525 (Ala. 2003). "'General jurisdiction applies where a defendant's activities in the forum state are "substantial" or "continuous and systematic," regardless of whether those activities gave rise to the lawsuit.'" Id. (quoting Leventhal v. Harrelson, 723 So. 2d 566, 569 (Ala. 1998)) (emphasis added). "'A court has specific jurisdiction when a defendant has had few contacts with the forum state, but those contacts gave rise to the lawsuit.'" Id. (quoting Leventhal, 723 So. 2d at 569) (emphasis added).

In the case of either general or specific personal jurisdiction, ""[t]he "substantial connection" between the defendant and the forum state necessary for a finding of minimum contacts must come about by an action of the defendant purposefully directed toward the forum

State.'"" Ex parte Bradshaw, 328 So. 3d at 241 (quoting Ex parte Georgia Farm Bureau Mut. Auto. Ins. Co., 889 So. 2d 545, 551 (Ala. 2004), quoting in turn Elliott v. Van Kleef, 830 So. 2d 726, 731 (Ala. 2002), quoting in turn Asahi Metal Indus. Co. v. Superior Court of California, 480 U.S. 102, 112 (1987)) (first emphasis added).

Moreover, even if we determine that a defendant has sufficient minimum contacts with Alabama for the purpose of exercising personal jurisdiction, this Court may still separately consider "whether subjecting [him or her] to Alabama's jurisdiction would violate traditional notions of "fair play and substantial justice."" Vista Land & Equip., L.L.C. v. Computer Programs & Sys., Inc., 953 So. 2d 1170, 1178 (Ala. 2006) (quoting Leithead v. Banyan Corp., 926 So. 2d 1025, 1032 (Ala. 2005), quoting in turn International Shoe Co. v. Washington, 326 U.S. 310, 320 (1945)).

In denying M.E.J.'s motion to dismiss, the trial court did not indicate whether it regarded its jurisdiction over her to be general or specific. We will thus address each form of personal jurisdiction in turn.

#### A. General Jurisdiction

M.E.J. contends that M.T.C. failed to establish that the trial court

had general jurisdiction over her because, she says, there is nothing indicating that she had "continuous and systematic contacts" with Alabama sufficient to support the exercise of such personal jurisdiction over her. In response, M.T.C. asserts that the trial court had general jurisdiction over M.E.J. but then states that he "does not want to labor this Court with argument concerning 'general jurisdiction' as 'specific jurisdiction' is undeniable." Answer at 13.

In most cases, "'[f]or an individual, the paradigm forum for the exercise of general jurisdiction is the individual's domicile.'" Ex parte Bradshaw, 328 So. 2d at 242 (quoting Goodyear Dunlop Tires Operations, S.A. v. Brown, 564 U.S. 915, 924 (2011)). This Court has also stated, however, that general personal jurisdiction can arise through a defendant's "general contacts" with a forum state that ""are unrelated to the cause of action and that are both "continuous and systematic."" "" Id. at 241 (citations omitted).

In the present case, M.E.J. submitted undisputed evidence that she is a resident of Washington and that she has never visited or otherwise set foot in Alabama. She also presented undisputed evidence that she lacks any personal or professional relationships in Alabama and has

never transacted business in this state. Based on the foregoing, we agree that M.T.C. failed to establish that M.E.J., whose domicile is Washington, had any "continuous and systematic contacts" with Alabama that were unrelated to the present cause of action so as to support a finding of general jurisdiction.

### B. Specific Jurisdiction

Next, M.E.J. argues that M.T.C. failed to establish that Alabama's courts can exercise specific jurisdiction over her in this action. Relying on this Court's decision in Hinrichs v. General Motors of Canada, Ltd., 222 So. 3d 1114 (Ala. 2016), M.E.J. contends that M.T.C. failed to establish (1) that she purposefully availed herself of the privilege of conducting activities in Alabama by discussing the alleged rape in both a blog entry on the Internet and in a letter to the senior pastor at the church in Birmingham; (2) that M.T.C.'s action arose out of or related to her purported activities in Alabama; and (3) that an Alabama court's exercise of personal jurisdiction over her would comport with "traditional notions of fair play and substantial justice."

In his answer, M.T.C. does not assert that M.E.J.'s Internet blog post constituted evidence that she purposefully directed any action

toward Alabama for the purpose of determining the existence of specific jurisdiction.<sup>4</sup> Instead, he contends only that M.E.J. purposefully availed

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<sup>4</sup>Even if M.T.C. had made such an argument, our appellate courts have previously recognized that, without more, a defendant's post on an online forum that is accessible to anyone who has a computer and an Internet connection -- whether located in Alabama or not -- even if related to the cause of action, does not constitute evidence that the defendant purposefully directed any action toward the forum state for the purpose of determining the existence of specific jurisdiction. See, e.g., Novak v. Benn, 896 So. 2d 513, 516-20 (Ala. Civ. App. 2004) (holding that the defendant's disparaging comments about the plaintiff, a resident of Alabama, on an Internet forum did not subject him to suit in Alabama without a showing that the defendant purposefully directed his comments to Alabama); see also Facebook, Inc. v. K.G.S., 294 So. 3d 122, 136 n.11 (Ala. 2019) (noting that courts that have addressed this issue "have concluded that the general accessibility of Facebook's Web site or mobile application in a forum does not provide a sufficient connection to the forum to support the exercise of general or specific jurisdiction").

Indeed, courts in other jurisdictions have also held that a post on an online forum or social-media platform that is not specifically directed to a forum state does not constitute a sufficient minimum contact to confer personal jurisdiction under the Due Process Clause of the 14th Amendment to the United States Constitution. See, e.g., Vision Media TV Grp., LLC v. Forte, 724 F. Supp. 2d 1260 (S.D. Fla. 2010) (finding no personal jurisdiction in defamation case after noting that "'the mere existence of a website that is visible in a forum and that gives information about a company and its products is not enough, by itself, to subject a defendant to personal jurisdiction in that forum'" (quoting Fraser v. Smith, 594 F.3d 842, 847 (11th Cir. 2010)) (emphasis added)); Planet Aid, Inc. v. Reveal, Ctr. for Investigative Reporting, Civil Action No. GLR-16-2974, June 26, 2017 (D. Md. 2017), n.8 (not reported in Federal Supplement) (recognizing, in defamation action, that, "even assuming that [some] Twitter users reside in Maryland, [the defendants'] tweets

herself of the privilege of conducting activities in Alabama when she sent her letter to his new employer in Birmingham and notes that his defamation action against her is based primarily on the content of that letter. Based on that contention, M.T.C. asserts that the trial court's ability to exercise specific jurisdiction over M.E.J. is "undeniable" in this case.

This Court has recently explained:

"Specific jurisdiction ... depends on an "affiliatio[n] between the forum and the underlying controversy," principally, activity or an occurrence that takes place in the forum State and is therefore subject to the State's regulation. [Arthur T.] von Mehren & [Donald T.] Trautman, Jurisdiction to Adjudicate: A Suggested Analysis, 79 Harv. L. Rev. 1121, 1136 (1966) (hereinafter von Mehren & Trautman); see [Lea] Brilmayer et al., A General Look at General Jurisdiction, 66 Texas L. Rev. 721, 782 (1988) .... In contrast to general, all-purpose jurisdiction, specific jurisdiction is confined to adjudication of "issues deriving from, or connected with, the very controversy that establishes jurisdiction." von Mehren & Trautman 1136."

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are insufficient minimum contacts between [d]efendants and Maryland"); and Miller v. Gizmodo Media Grp., LLC, 383 F. Supp. 3d 1365, 1375 (S.D. Fla. 2019) (finding in a defamation action that the defendant's "tweet" lacked a "Florida focus" and, thus, that exercise of personal jurisdiction over the defendant was impermissible under the Due Process Clause). See also Gregory C. Cook & Andrew Ross D'Entremont, No End in Sight? Navigating the "Vast Terrain" of Personal Jurisdiction in Social Media Cases After Ford, 73 Ala. L. Rev. 621 (2022).



Facebook, 294 So. 3d at 134 (quoting Goodyear, 564 U.S. at 919).

The analytical framework used for determining whether specific jurisdiction exists consists of two primary requirements. First, there must be an indication that M.E.J. has "purposefully availed" herself of the privilege of conducting activities within Alabama. Id. at 132. Specifically, there must be (1) a "substantial connection" "between [M.E.J.] and [Alabama] necessary for a finding of minimum contacts" and (2) those contacts "'must come about by an action of [M.E.J.] purposefully directed toward [Alabama]." Id. (quoting Elliott, 830 So. 2d at 731) (first emphasis added). This requirement "'assures that [M.E.J.] will not be haled into [Alabama] as a result of "'the unilateral activity of another person or a third person.'"" Id. (quoting Elliott, 830 So. 2d at 731, quoting in turn Burger King Corp. v. Rudzewicz, 471 U.S. 462, 475 (1985), quoting in turn Helicopteros Nacionales de Colombia, S.A. v. Hall, 466 U.S. 408, 417 (1984)). Second, M.T.C.'s action must "'arise[] out of or relate[] to [M.E.J.'s] contacts with [Alabama].'" Id. at 134 (quoting Daimler AG v. Bauman, 571 U.S. 117, 127 (2014), quoting in turn Helicopteros, 466 U.S. at 414 n.8). We will address each requirement in turn, and, given that M.T.C. bases his argument in support of the

existence of specific jurisdiction on M.E.J.'s action of mailing a letter to the senior pastor of the Birmingham church in Alabama, we will base our analysis on that purported contact alone.

In addressing the "purposeful availment" requirement, this Court has previously explained:

""[I]t is essential in each case that there be some act by which the defendant purposefully avails itself of the privilege of conducting activities within the forum State, thus invoking the benefits and protections of its laws.

""This purposeful availment requirement ensures that a defendant will not be haled into a jurisdiction solely as a result of random, fortuitous, or attenuated contacts, or of the unilateral activity of another party or a third person. Jurisdiction is proper, however, where the contacts proximately result from actions by the defendant himself that create a substantial connection with the forum State. Thus where the defendant deliberately has engaged in significant activities within a State, or has created continuing obligations between himself and residents of the forum, he manifestly has availed himself of the privilege of conducting business there, and because his activities are shielded by the benefits and protections of the forum's laws it is presumptively not unreasonable to require him to submit to the burdens of litigation in that forum as well.""

Ex parte Bradshaw, 328 So. 3d at 241 (quoting Ex parte Georgia Farm Bureau Mut. Auto. Ins. Co., 889 So. 2d at 550-51, quoting in turn Burger King Corp., 471 U.S. at 475-76) (emphasis on "himself" in original; other emphasis added).

Where, as here, a defamation claim has been alleged, the United States Supreme Court has applied a test known as the "effects test," which originated in Calder v. Jones, 465 U.S. 783 (1984). That test weighs the effects of the defendant's intentional conduct aimed at the forum state, including the contacts with the forum created thereby. Ex parte LED Corps., 303 So. 3d 1160, 1168-69 (Ala. 2020) (plurality opinion) (citing Calder and noting that the "'effects' of a nonresident defendant's alleged actions must create sufficient contacts with the forum, not just with the plaintiff," and that "[a] forum State's exercise of jurisdiction over an out-of-state intentional tortfeasor must be based on intentional conduct by the defendant that creates the necessary contacts with the forum" (quoting Walden v. Fiore, 571 U.S. 277, 286 (2014)) (emphasis added)). Neither M.T.C. nor M.E.J. cites Calder or discusses expressly the "effects test"; however, given that, like the claim asserted in Calder, M.T.C.'s only claim against M.E.J. is a defamation claim, we must consider Calder's impact on the personal-jurisdiction arguments raised here.

In Calder, an actress residing in California brought an action in California alleging that two defendants, who were Florida residents, had

written and edited a defamatory article about her, which had been published in a national magazine that had its largest circulation in California. The United States Supreme Court held that the California court had personal jurisdiction over the two Florida defendants "based on the 'effects' of their Florida conduct in California." Calder, 465 U.S. at 789 (emphasis added). This was so, the Court held, because the defendants were "not charged with mere untargeted negligence" and their "intentional, and allegedly tortious, actions were expressly aimed at California." Id. (emphasis added).

The Court found that California was "the focal point both of the story and of the harm suffered." Id. According to the Court, the defendants' defamatory article was "expressly aimed" at California because it "concerned the California activities of a California resident," it was "drawn from California sources," and it caused the plaintiff to suffer "the brunt of the harm" in California, where the magazine had its largest circulation. Id. at 788-89. The Court also noted that the defendants knew that "the brunt of that injury would be felt by [the plaintiff] in the State in which she lives and works and in which [the national magazine] has its largest circulation." Id. at 789-90. Thus, the Court held, the

defendants "must 'reasonably anticipate being haled into court [in California]' to answer for the truth of the statements made in their article." Id. at 790.

Thirty years after issuing its decision in Calder, the Supreme Court refined the "effects test" in Calder in Walden, supra, stating that the "effects" of a nonresident's alleged actions must create sufficient contacts with the forum, not just with the plaintiff.

In Walden, the defendant, a Georgia police officer, was working as a deputized agent of the Drug Enforcement Administration at an airport in Atlanta. The plaintiffs had flown from Puerto Rico to Atlanta, where they planned to take a connecting flight to Las Vegas. The defendant was notified by officials in Puerto Rico that the plaintiffs had approximately \$97,000 in cash in their carry-on luggage, and the defendant approached the plaintiffs as they were at their departure gate for their flight to Las Vegas. After a drug-sniffing dog inspected the plaintiffs' luggage, the defendant seized the cash and informed the plaintiffs that their cash would be returned if they could provide a legitimate source for the cash, which, the plaintiffs had explained, was their winnings from gambling.

The plaintiffs departed for Las Vegas without the cash; the

following day, the plaintiffs' attorney in Nevada telephoned the defendant seeking a return of the plaintiffs' cash. At some point thereafter, the defendant drafted an affidavit, which, the plaintiffs alleged, was false and misleading, to show probable cause for forfeiture of the funds; however, no forfeiture action was ever commenced, and the cash was later returned to the plaintiffs. The plaintiffs sued the Georgia defendant in Nevada, seeking money damages for, among other things, the defendant's wrongful seizure of their cash without probable cause and willfully seeking forfeiture while withholding exculpatory information.

The United States Court of Appeals for the Ninth Circuit, applying the Calder "effects test," held that the Nevada court could exercise personal jurisdiction over the nonresident defendant because he had "'expressly aimed' his submission of the allegedly false affidavit at Nevada by submitting the affidavit with knowledge that it would affect persons with a 'significant connection' to Nevada." Walden, 571 U.S. at 282. The Ninth Circuit Court of Appeals further held that "the delay in returning the funds to [the plaintiffs] caused them 'foreseeable harm' in Nevada." Id.

The United States Supreme Court reversed that judgment and held

that the Nevada court could not exercise personal jurisdiction over the defendant. The Court discussed its decision in Calder at length and stated that the "crux" of its holding in Calder was "that the reputation-based 'effects' of the alleged libel connected the defendants to California, not just to the plaintiff," and that "[t]he strength of that connection was largely a function of the nature of the libel tort." Id. at 287. The Court noted that in Calder "the 'effects' caused by the defendants' article -- i.e., the injury to the plaintiff's reputation in the estimation of the California public -- connected the defendants' conduct to California, not just to a plaintiff who lived there." Id. at 288. "That connection," the Court held, "combined with the various facts that gave the article a California focus, sufficed to authorize the California court's exercise of jurisdiction." Id.

In applying those principles from Calder to the facts in Walden, the Court in Walden concluded that the defendant did not have sufficient minimum contacts with Nevada to justify the exercise of personal jurisdiction in a Nevada court. The Court noted that "no part of [the defendant's] course of conduct occurred in Nevada" and that the defendant had "never traveled to, conducted activities within, contacted anyone in, or sent anything or anyone to Nevada." Id. at 288-89. The

Court held that, "when viewed through the proper lens -- whether the defendant's actions connect him to the forum -- [the defendant] formed no jurisdictionally relevant contacts with Nevada." Id. at 289. The Court further explained:

"As previously noted, Calder made clear that mere injury to a forum resident is not a sufficient connection to the forum. Regardless of where a plaintiff lives or works, an injury is jurisdictionally relevant only insofar as it shows that the defendant has formed a contact with the forum State. The proper question is not where the plaintiff experienced a particular injury or effect but whether the defendant's conduct connects him to the forum in a meaningful way."

Id. at 289-90 (emphasis added). Because our Court must respect the limits of personal jurisdiction set forth in the Due Process Clause of the 14th Amendment to the Constitution of the United States, we cannot broaden the effects test further than has the United States Supreme Court.

In the present case, M.E.J. contends that, because her only contact with Alabama was a single letter sent from her home in Washington to the senior pastor in Birmingham, any contact she had with Alabama is "simply too attenuated to justify the exercise of personal jurisdiction" and cannot constitute conduct directly aimed at Alabama. Petition at 18 (quoting Consulting Eng'rs Corp. v. Geometric Ltd., 561 F.3d 273, 275-76



(4th Cir. 2009)).<sup>5</sup> M.T.C. contends, however, that M.E.J.'s letter is "hardly random, fortuitous or attenuated" and that to suggest otherwise "is almost laughable." Answer at 14.

Unlike the article in Calder, which concerned "the California activities of a California resident," Calder, 465 U.S. at 788 (emphasis added), the allegations in M.E.J.'s letter do not concern the Alabama activities of an Alabama resident. Instead, those allegations concern conduct allegedly committed by M.T.C. in Washington while he was still

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<sup>5</sup>M.E.J. cites several cases holding that a single letter or email or phone call directed toward someone located in a particular forum is not sufficient to confer on a court of that particular forum personal jurisdiction over the sender or caller. Petition at 16-17 (citing Peterson v. Wallace, 622 F. Supp. 2d 791, 798 (D. Minn. 2008) (recognizing that, "[g]enerally, sending letters into ... a forum state is insufficient, by itself, to satisfy due process and confer jurisdiction"); Cape v. Maur, 932 F. Supp. 124, 128 (D. Md. 1996) (stating that, generally, correspondence and telephone calls are insufficient as a matter of law to establish minimum contacts to satisfy due-process requirements); and Bulkley & Assocs., L.L.C. v. Department of Indus. Relations, Div. of Occupational Safety and Health, of California, 1 F.4th 346, 354 (5th Cir. 2021) (recognizing that a letter "'focused on activities occurring outside [the forum state]" does not establish personal jurisdiction)). Unlike in those cases, here the single contact at issue -- M.E.J.'s letter -- is the basis for the action. This does not mean, however, that this single contact is sufficient to confer specific personal jurisdiction over M.E.J. because the contact must still connect M.E.J. to Alabama in a "meaningful way." Walden, 571 U.S. at 290 (emphasis added).

a resident of Washington. This contrasts with the defamatory article in Calder, which relied on sources in and described activities connected to the forum state. Calder, 465 U.S. at 788-89 (recognizing that the fact that the sources upon which the defamatory article was based were in the forum state weighed in favor of exercising personal jurisdiction over the defendants). Here, it is undisputed that the alleged defamatory statements in M.E.J.'s letter to the senior pastor in Birmingham concerned activities and sources that were not connected to Alabama but were instead connected to Washington. Thus, like in Walden and unlike in Calder, "the defendant's conduct [does not sufficiently connect her] to the forum in a meaningful way." Walden, 571 U.S. at 290.<sup>6</sup>

Even if that were not the case, as M.E.J. argues, her single letter to the senior pastor in Birmingham still cannot serve as a basis for concluding that she had sufficient minimum contacts with Alabama

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<sup>6</sup>See also Planet Aid, Inc. v. Reveal, Ctr. for Investigative Reporting, Civil Action No. GLR-16-2974, June 26, 2017 (D. Md. 2017) (not reported in Federal Supplement) (finding no personal jurisdiction in defamation action because "the [allegedly defamatory] Podcasts and ... Articles were not drawn only, or even primarily, from Maryland sources, but from a variety of sources from across the United States and several countries in addition to Maryland. Thus, the Court concludes that Plaintiffs fail to satisfy the effects test and will not exercise jurisdiction over Defendants on this basis.").

because her single contact with the forum state was "invited by the [Birmingham church] and conveyed to her by her pastor" and was, thus, not a suit-related contact initiated solely by her. Petition at 18. Indeed, in her affidavit M.E.J. stated:

"2. On April 29, 2019, Plaintiff [M.T.C.] sexually assaulted me in the church where we worked in ... Washington.

"3. Following the assault, I learned that Plaintiff [M.T.C.] began preaching at [a church] in Birmingham, Alabama. Because I understood that Plaintiff [M.T.C.] would ... be preaching at the [church in Birmingham], I grew concerned and wanted to ensure that the [church in Birmingham] was aware of the April 29, 2019, assault.

"4. I contacted [my pastor], a church board member who had already been in conversations with [the church in Birmingham] regarding this matter, with my concerns.

"5. After communicating with the [church in Birmingham], [my pastor] encouraged me to reach out to [the senior pastor] at the [church in Birmingham] directly.

"6. I would not have communicated with [the senior pastor at the church in Birmingham] without being encouraged to do so by [my pastor]."

(Emphasis added.)

M.E.J.'s contention that she "would not" have communicated with the senior pastor at the Birmingham church had she not been encouraged to do so by her own pastor is supported by her pastor's affidavit. In his

affidavit, M.E.J.'s pastor not only admitted to having shared M.E.J.'s allegations with the senior pastor in Birmingham before initially speaking with M.E.J. about M.T.C.'s new position at the Birmingham church but also stated that he "encouraged M.E.J. to communicate directly with [the senior pastor in Birmingham] and to put her claims against [M.T.C.] in writing."

M.T.C. does not contest those factual assertions but instead contends that M.E.J.'s assertions are irrelevant. He further contends that such circumstances, even if true, "do[] not excuse her from her actions or the jurisdiction of the State of Alabama." Answer at 15.

In Facebook, supra, we addressed a similar situation. In that case, a child's adoptive mother brought an invasion-of-privacy action against Facebook, Inc. ("Facebook"). She sought a preliminary injunction prohibiting the dissemination of information about the adopted child's contested adoption that was no longer pending. The trial court entered a preliminary injunction ordering Facebook to deactivate the social-media page at issue. Facebook appealed, arguing, among other things, that the trial court lacked personal jurisdiction over it.

In addressing whether the trial court could exercise specific

personal jurisdiction over Facebook, this Court noted that the attorney for the adoptive mother had contacted Facebook in two letters and that the adoptive mother herself had also filed a report of harassment with Facebook. Facebook then responded in writing to at least one of the attorney's letters and also responded in writing to the adoptive mother's harassment report.

To the extent that the adoptive mother relied on those contacts to establish minimum contacts for the purposes of specific personal jurisdiction, this Court explained that "those contacts are insufficient to establish minimum contacts with Alabama." 294 So. 3d at 140. Relying on Walden, in which the Supreme Court stated that "it is the defendant, not the plaintiff or third parties, who must create contacts with the forum State," 571 U.S. at 291, this Court explained:

"Facebook's contacts with Alabama that were made merely in response to K.G.S.'s or her attorney's contact with Facebook are 'precisely the sort of "unilateral activity" of a third party that "cannot satisfy the requirement of contact with the forum State.'" [Walden v. Fiore, 571 U.S. 277] at 291, 134 S.Ct. 1115 [(2014)] (quoting Hanson v. Denckla, 357 U.S. [235] at 253, 78 S.Ct. 1228 [(1958)]). ... Focusing, as we must, on the suit-related contacts Facebook itself created with Alabama -- not Facebook's contacts with K.G.S. or K.G.S.'s contacts with Alabama -- we must conclude that there is an absence of suit-related conduct that creates a substantial connection with Alabama. Thus, we must conclude that the Fourteenth

Amendment does not allow for the exercise of specific jurisdiction over Facebook under the particular facts of this case. See Ex parte Citizens Prop. Ins. Corp., 15 So. 3d 511, 515 (Ala. 2009) ("The issue of personal jurisdiction "'stands or falls on the unique facts of [each] case.'" (quoting Ex parte I.M.C., Inc., 485 So. 2d 724, 725 (Ala. 1986) (quoting and adopting trial court's order)))."

Facebook, 294 So. 3d at 140.

Similar to Facebook, here the undisputed affidavit testimony before us indicates that M.E.J.'s "suit-related" contact with Alabama -- her letter to the senior pastor in Birmingham -- was made in response to encouragement that she received from a third party -- M.E.J.'s pastor in Washington -- who, admittedly, had already been in contact with the senior pastor in Birmingham about the alleged rape. In her affidavit, M.E.J. made clear that she "would not have communicated with [the senior pastor in Birmingham] without being encouraged to do so by [her pastor]." Thus, focusing, as we did in Facebook, on the "suit-related" contact that M.E.J. herself made with Alabama, we cannot say that M.E.J.'s letter to the senior pastor in Birmingham was sufficient to establish minimum contacts with Alabama because, as demonstrated by the undisputed affidavit testimony before us, that contact would not have occurred absent encouragement from her pastor in Washington.

As to the harm allegedly suffered by M.T.C., we note that, in his complaint, M.T.C. alleged that, "as a proximate result of the libelous and slanderous charges made by [M.E.J.]," he has "lost his employment and reputation in the community," has "been made to suffer mental anguish and torment as well as humiliation and embarrassment," and has "lost paid publishing contracts and other paid speaking engagements." As noted in Calder and later clarified by the Supreme Court in Walden, however, "mere injury to a forum resident is not a sufficient connection to the forum." Walden, 571 U.S. at 290.

As noted above, the plaintiff has the burden of establishing personal jurisdiction, and "if the defendant makes a prima facie evidentiary showing that the Court has no personal jurisdiction, "the plaintiff is then required to substantiate the jurisdictional allegations in the complaint by affidavits or other competent proof, and he may not merely reiterate the factual allegations in the complaint."" Ex parte Bradshaw, 328 So. 3d at 240 (citations and emphasis omitted). M.T.C. has offered nothing to substantiate his jurisdictional allegations in his complaint, has offered no evidence in opposition to M.E.J.'s assertions discussed above, has made no request for jurisdictional discovery, and

has made no request to exclude M.E.J.'s evidence.

Based on the foregoing, we cannot say that M.E.J.'s act of sending a single letter to M.T.C.'s new employer in Alabama created a sufficient contact with Alabama or that her suit-related conduct connected her to Alabama in a "meaningful way." Walden, 571 U.S. at 290. Because we conclude that M.E.J. lacked sufficient minimum contacts with Alabama under the "purposeful availment" requirement, we see no reason to address whether M.T.C.'s action arises out of or relates to M.E.J.'s purported activities in Alabama.

### C. Fair Play and Substantial Justice

Even if we were to conclude that M.E.J. had sufficient minimum contacts with Alabama, our caselaw makes clear that we can still consider "'whether subjecting [M.E.J.] to Alabama's jurisdiction would violate traditional notions of 'fair play and substantial justice.'"' Vista Land & Equip., 953 So. 2d at 1178 (quoting Leithead, 926 So. 2d at 1032, quoting in turn International Shoe, 326 U.S. at 320).

In World-Wide Volkswagen Corp. v. Woodson, 444 U.S. 286 (1980), the United States Supreme Court stated:

"The protection against inconvenient litigation is typically described in terms of 'reasonable ness' or 'fairness.'



We have said that the defendant's contacts with the forum State must be such that maintenance of the suit 'does not offend "traditional notions of fair play and substantial justice."' *International Shoe Co. v. Washington*, [326 U.S. 310] at 316 [(1945)], quoting *Milliken v. Meyer*, 311 U.S. 457, 463 (1940). The relationship between the defendant and the forum must be such that it is 'reasonable ... to require the [defendant] to defend the particular suit which is brought there.' 326 U.S., at 317. Implicit in this emphasis on reasonableness is the understanding that the burden on the defendant, while always a primary concern, will in an appropriate case be considered in light of other relevant factors ...."

444 U.S. at 292 (emphasis added). In determining whether exercising jurisdiction comports with traditional notions of fair play and substantial justice, this Court has previously stated that "'the forum State's interest in adjudicating the dispute' [and] 'the plaintiff's interest in obtaining convenient and effective relief'" are factors that should be considered and balanced with the potential burden that litigating the action in the forum state would place on the defendant. *Ex parte DBI, Inc.*, 23 So. 3d 635, 656 (Ala. 2009) (quoting *World-Wide Volkswagen*, 444 U.S. at 292, and *Burger King*, 471 U.S. at 477).

Although M.E.J. contends that all the above-mentioned factors demonstrate how subjecting her to jurisdiction in Alabama would violate traditional notions of fair play and substantial justice, she places

particular emphasis on the burden that would be placed on her if she were required to litigate her dispute with M.T.C. in Alabama. M.E.J. contends that if she were required to defend against M.T.C.'s lawsuit in Alabama, she "would suffer undue expense and hardship if compelled to transport her evidence, witnesses, and herself to Alabama while also fulfilling her work, school, and childcare responsibilities." Petition at 24. M.T.C. maintains, however, that requiring M.E.J. to defend against his action in Alabama would not violate traditional notions of fair play and substantial justice.

The materials before us indicate that, to defend against M.T.C.'s action, M.E.J. would need to travel nearly 2,500 miles from the State of Washington to Birmingham.<sup>7</sup> Additionally, in her affidavit, M.E.J. asserted that the evidence pertaining to her allegedly defamatory accusation of rape, and every potential witness regarding the alleged rape, is located in Washington. As noted above, she also asserts that requiring her to travel to Alabama would be unduly burdensome because

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<sup>7</sup>This Court takes judicial notice of the distance between those two locations. See Ex parte McGriff, 908 So. 2d 1024, 1027 (Ala. 2004) (taking judicial notice of distance between two towns).

she is a single mother attending school at a local university.<sup>8</sup> Again, M.T.C. provides this Court with nothing to dispute or otherwise address M.E.J.'s factual and legal assertions.

As to Alabama's interests in adjudicating M.T.C.'s claim, M.E.J. contends that such interests, if any, are minimal in this case. Specifically, she notes that M.T.C.'s defamation claim against her originates from an alleged event that occurred in Washington and that "Alabama is primarily interested in regulating conduct within its jurisdiction, not conduct that occurred elsewhere." Petition at 24.

In the present case, it is undisputed that the driving question is whether M.E.J.'s rape allegation against M.T.C. is true and whether the facts underlying her allegation are true. It is hard to imagine that

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<sup>8</sup>Although this Court has previously recognized that "modern transportation and communication have made it much less burdensome for a party sued to defend himself in a State where he engages in economic activity," such reasoning has been most compelling in cases involving major corporations. Ex parte DBI, Inc., 23 So. 3d 635, 657 (Ala. 2009) (citation omitted). This case involves an individual and not a corporation; it involves a tremendous distance (nearly the longest distance possible within the continental United States); it involves an alleged victim of a very serious physical and emotional attack; and it involves an individual with few financial resources. Thus, we see no reason why "modern transportation and communication" should weigh against M.E.J. in the present case.

Alabama would have a significant and manifest interest in providing a forum for redressing a defamation injury that arose out of an alleged rape that occurred in Washington. Because all the facts underlying this claim occurred in Washington, it is reasonable to conclude that Washington -- not Alabama -- is the state that has the prevailing interest in adjudicating M.T.C.'s defamation claim. Moreover, there is no indication that M.E.J. has "'purposefully derive[d] a benefit'" from her conduct in this case. Burger King, 471 U.S. at 474 (citation omitted). Once again, M.T.C. does not offer any argument addressing this contention.

Finally, as to M.T.C.'s interest in obtaining convenient and effective relief, M.E.J. contends that M.T.C.'s ability to obtain relief "will not be stymied by a dismissal [in this case], as he would be free to refile suit in a court that can exercise jurisdiction over" her in Washington. Petition at 24. M.T.C. does not argue that litigating the present action in Alabama is his only means of obtaining convenient and effective relief. In fact, he provides no argument at all on this point.

Under the circumstances of this case, M.E.J.'s assertions regarding the burden on her are compelling, even when weighed against Alabama's interest in adjudicating the present dispute and M.T.C.'s interest in

obtaining convenient and effective relief.<sup>9</sup> We therefore conclude that traditional notions of fair play and substantial justice provide an additional basis upon which M.E.J. is entitled to relief here.

### Conclusion

M.E.J. has demonstrated a clear lack of either general or specific personal jurisdiction over her. Accordingly, M.E.J. has also demonstrated that she has a clear legal right to the requested relief. We, therefore, grant the petition and issue the writ directing the Jefferson Circuit Court to vacate its order denying M.E.J.'s motion to dismiss and to enter an order dismissing M.T.C.'s action against her for lack of personal jurisdiction.

PETITION GRANTED; WRIT ISSUED.

Parker, C.J., and Wise, Bryan, Sellers, Mendheim, and Stewart,

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<sup>9</sup>See Vision Media TV Grp. LLC v. Forte, 724 F. Supp. 2d 1260, 1267 (S.D. Fla. 2010) (finding no personal jurisdiction in a defamation case against an out-of-state individual because, among other reasons, requiring that individual to defend suit in Florida would not comport with "fair play and substantial justice"); and Wilson v. Belin, Civil Action No. 3-92-2633-R, Sept. 2, 1993 (N.D.Tex. 1993) (not reported in Federal Supplement) (finding no personal jurisdiction in a defamation case because, among other reasons, the exercise of personal jurisdiction over the defendants would not comport with "fair play and substantial justice").

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JJ., concur in the result.

Shaw, J., dissents.