

IN THE CIRCUIT COURT OF LAFAYETTE COUNTY, MISSISSIPPI

PHILIP HALBERT NEILSON

PLAINTIFF

VS.

CAUSE NO. L10-712

TOM DAWSON AND  
ALAN LANGE

DEFENDANTS

ORDER GRANTING DEFENDANTS' MOTION TO DISMISS

The above-styled and numbered cause came before the Court on Defendants' Motion to Dismiss for Failure to State a Claim upon which Relief can be Granted. The Court, after giving timely notice to the parties, has construed this motion as one for summary judgment under Miss. Rule Civ. Pro. 56. The Court, being familiar with the facts and applicable law and having considered the pleadings, evidence, and arguments presented by counsel, is of the opinion and finds as follows:

The plaintiff filed suit against the defendants alleging defamation of character. The defendants have moved to dismiss, arguing the published statements in issue were the truthful reporting of the subjective beliefs of certain individuals, namely Jim Greenlee, John Hailman, and Tom Dawson. The defendants also argue the plaintiff has not met the threshold of showing the published statements were false. *See McCullough v. Cook*, 679 So.2d 627, 631 (Miss. 1996). In support of their motion, the defendants have provided affidavits of Jim Greenlee, John Hailman, and Tom Dawson. In these affidavits, these individuals attest that they believed the plaintiff to be untrustworthy. This Court finds, based on the authority and supporting evidence provided by the

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BARETTA MOSLEY, CIRCUIT CLERK  
BY KC D.C.

defendants in their motion and accompanying memorandum, that the defendants have met their burden of persuasion and production and are entitled to judgment as a matter of law.

The plaintiff did not file a response to the motion. Rather, the plaintiff emailed to the Court, the night prior to the hearing on defendants' motion, a document titled "Plaintiff's Submission Regarding Defendant's Motions." The plaintiff did not file this document with the clerk of the court prior to the hearing.<sup>1</sup> The plaintiff did not provide proof – by affidavit or otherwise – in support of this submission. The Court finds plaintiff has not rebutted the defendants' motion with significant probative evidence. Therefore, this Court finds defendants' motion to be well-taken.

IT IS THEREFORE ORDERED that Defendants' motion is hereby GRANTED. The clerk is directed to provide a copy of this Order to all counsel of record.

SO ORDERED and ADJUDGED, this the 28<sup>th</sup> day of September, 2012.



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CIRCUIT COURT JUDGE

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<sup>1</sup>The plaintiff subsequently filed his "Submission Regarding Defendant's Motions" with the Court on September 6, 2012. The hearing was noticed for and held on September 4, 2012.