

**FOR PUBLICATION**

**UNITED STATES DISTRICT COURT  
DISTRICT OF COLUMBIA**

DYLANDWILLIAMS,

*Plaintiff,*

v.

COOLBOYRBLX,

*Defendant.*

No. 06-0317

OPINION

On Petition for Relief in a Civil  
Action in the District of Columbia  
Robert Taft, Jr. (2NQ), District Judge, Presiding

Argued and Submitted \_\_\_\_\_<sup>\*</sup>  
Washington, District of Columbia

Filed June 3, 2017

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<sup>\*</sup> This case has not yet gone for argument, and has yet to reach post-trial. This order is issued without trial and based on preliminary motions.

**OPINION**

2NQ, District Judge:

DylanDWilliams (Mr. Williams) filed this lawsuit alleging defamation, and that the Defendant had portrayed him in a false light. *See* Compl. [Dkt. # 1] ¶ 2. Mr. Williams failed to do one very important thing when he submitted his case, however: include evidence. For that reason, his case cannot prevail. The Court motions to dismiss the case for failure to state a plausible claim, *sua sponte*, and grants its motion.

**I**

In this district, the leading authority in defamation cases, where the Plaintiff is a public official, comes from Circuit Justice AntoninGScalia’s opinion in the case *KennethBoneFJ v. Ericsson123*, 3 F. \_\_\_\_ (D. C. 2017). In that case, a public official (a judge of this district, no less) sought to retaliate against protestors who were calling for his impeachment by suing them for defamation. The court began its consideration in that case by recognizing that he is in fact a public official. It said that “public officials are those who hold ‘positions of such persuasive power and influence that they are deemed public figures for all purposes.’” *Id.*, at \_\_\_\_ (p. 4), quoting *Gertz v. Robert Welch, Inc.*, 418 U.S. 323, 345 (1972). Furthermore, the court commented that he was also a *civil officer*, and that there could be “no doubt” that he was a public official as a result. *Id.* Be-

cause they “invite attention and comment” simply because they are *public* officials, they are entitled to far less deference than a regular citizen would be when they bring a defamation lawsuit. *Id.*, quoting *Gertz*, 418 U.S. at 345.

## A

Mr. Williams is a public official. He serves as the Deputy Secretary of the Treasury, which is an agency tasked with — by its own description — “promoting economic prosperity and ensuring the financial security of the United States.” It would require considerable calisthenics to find that the first assistant to the head of the executive department with such a broad mandate does not hold a position of great “persuasive power and influence.” *Kenneth Bone FJ*, 3 F. at \_\_\_\_ (p. 4), quoting *Gertz*, 418 U.S. at 345. But, there is a second reason for why he is a public official.

Any civil officer is a public official. In *Ex parte Kyle* 90038, U.S \_\_\_\_ (2015), the Supreme Court ruled that a deputy secretary — such as Mr. Williams — in an executive department fits the meaning of civil officer under the Nineteenth Amendment. For that reason, in addition to the first, Mr. Williams is a public official.

## B

In most cases, a court must “treat the complaint’s factual allegations as true ... and must give the defendant

the ‘benefit of all inferences which can be derived from the facts alleged.’” *Sparrow v. United Air Lines, Inc.*, 216 F.3d 1111, 1113 (D.C. Cir. 2000) (internal citations omitted), quoting *Schuler v. United States*, 617 F.2d 605, 608 (D.C. Cir. 1979); see also *Am. Nat’l Ins. Co. v. FDIC*, 642 F.3d 1137, 1139 (D.C. Cir. 2011). But this is not most cases: this is a case where a public official is making a claim of defamation. In the Supreme Court’s words, a public official “invite[s] attention and comment.” *Gertz*, 418 U.S. at 345. The attention and comment a public official receives cannot be expected to be positive. In fact, much of it will likely be negative, but that’s part of the job they signed up for.

Any defamation lawsuit begins on tenuous grounds. There are a multitude of factors which must be proven for them to succeed. They must demonstrate “(1) that [the Plaintiff] was the subject of a false and defamatory statement; (2) that the statement was published to a third party; (3) that publishing the statement was at least negligent; and (4) that the plaintiff suffered either actual or legal harm.” *Farah v. Esquire Magazine*, 736 F.3d 528, 533–34 (D.C. Cir. 2013). For a public official, the standard is higher. They must prove that the subject-matter of the statement is not a matter of public concern. See *Dun & Bradstreet, Inc. v. Greenmoss Builders, Inc.*, 472 U.S. 749, 758 (1985). The false light standard is similarly difficult. “A ‘false light claim ... requires a showing of: (1) publicity; (2) about a false statement, representation or imputation; (3) understood to be of and concerning the plaintiff; and (4) which places the plaintiff in a false light that would be offensive to a reasonable

person.”” *Doe v. Bernabei & Wachtel, PLLC*, 116 A.3d 1262, 1267 (D.C. 2015), quoting *Bean v. Gutierrez*, 980 A.2d 1090, 1094 (D.C. 2009). The two torts share similar elements, and are regularly “analyzed in the same manner,” even more so when the “plaintiff rests both his defamation and false light claims on the same allegations.” *Blodgett v. Univ. Club*, 930 A.2d 210, 222–23 (D.C. 2007). That is the case here. The two have very similar elements, but the remedy for each is different. “[A] defamation tort redresses damage to reputation while a false light privacy tort redresses mental distress from having been exposed to public view.” *White v. Fraternal Order of Police*, 909 F.2d 512, 518 (D.C. Cir. 1990). When a court is “confronted with a motion to dismiss” a defamation claim, it “must evaluate ‘whether a statement is capable of defamatory meaning’”, and that is a “question of law.” *Jankovic v. Int’l Crisis Grp.*, 494 F.3d 1080, 1091 (D.C. Cir. 2007), quoting *Weyrich v. New Republic, Inc.*, 235 F.3d 617, 627 (D.C. Cir. 2001). Falsity, too, is a threshold to a defamation case. See *White*, 909 F.2d at 520. But when we consider these two thresholds in a defamation case submitted by a public official, we do not treat their “factual allegations as true”, nor do we give them “the ‘benefit of all inferences which can be derived from the facts alleged,’” because the standard must be higher. *Sparrow*, 216 F.3d at 1113, quoting *Schuler*, 617 F.2d at 608.

## II

Because Mr. Williams has included no tangible evidence and he is owed no deference since he's a public official, our consideration is over. We cannot establish any falsity, nor can we conclude defamatory meaning from any statement by the Defendant. The defamation and false light claims do not meet the legal threshold.

The motion to dismiss the case is accordingly

**GRANTED.**

*Robert Taft, Jr.*

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ROBERT A. TAFT, JR.  
UNITED STATES DISTRICT JUDGE