

IN THE EIGHTH CIRCUIT COURT FOR DAVIDSON COUNTY, TENNESSEE,
AT NASHVILLE

FILED
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THOMAS NATHAN LOFTIS, SR.,)
)
 Plaintiff,)
)
 v.)
)
 RANDY RAYBURN,)
)
 Defendant.)

Case No. 17C-295
Hon. Kelvin D. Jones

RICHARDSON
KELVIN D. JONES
[Signature]

**ORDER DISMISSING PLAINTIFF'S AMENDED COMPLAINT
WITH PREJUDICE**

This cause came to be heard on the 10th day of July, 2017, before the Honorable Kelvin D. Jones in the Eighth Circuit Court for Davidson County, Tennessee, upon the Defendant's Tenn. R. Civ. P. 12.02(6) Motion to Dismiss the Plaintiff's Amended Complaint for Failure to State a Claim Upon Which Relief Can be Granted. After full consideration of the Parties' pleadings filed in this matter, the exhibits contained therein, the arguments of counsel, and the applicable law, the Court hereby FINDS and ORDERS as follows:

1. The Plaintiff has filed claims for false light invasion of privacy and defamation by implication or innuendo based on statements contained in a newspaper article attached to his Amended Complaint that was written by Jim Myers and published by the *Tennessean*. The Plaintiff has alleged that the statements contained in the article were spoken by the Defendant.

2. Under Tenn. R. Civ. P. 12.02(6), the Court construes the Plaintiff's Amended Complaint liberally in favor of the Plaintiff, taking all allegations of fact as

true, and will deny the Defendant's Motion to Dismiss unless it appears that the Plaintiff can prove no set of facts in support of his claims that would entitle him to relief.

3. Under applicable law, the statements contained in the article must be read as a person of ordinary intelligence would understand them in light of the surrounding circumstances; the Court is not bound by the Plaintiff's interpretations of the statements contained in the article; there is significant and substantial overlap between false light and defamation; and whether any statement contained in the article is capable of being understood as defamatory is a question of law to be determined by the Court.

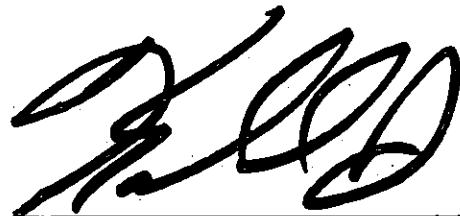
4 Applying these standards to the instant case, the Court is of the opinion that the statements contained in the *Tennessean* article are not capable of conveying a defamatory meaning and that they do not give rise to liability as a matter of law.

5. **THEREFORE**, the Defendant's Motion to Dismiss the Plaintiff's Amended Complaint is **GRANTED**. The Plaintiff's Amended Complaint, and each cause of action therein, is hereby **DISMISSED** with prejudice for failure to state a claim upon which relief can be granted.

Costs of this action are taxed to the Plaintiff and his surety, for which execution may issue if necessary.

IT IS SO ORDERED.

This the 19th day of July, 2017.



JUDGE KELVIN JONES
Circuit Court Judge

APPROVED FOR ENTRY:



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CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of July, 2017, a copy of the foregoing was sent via USPS, postage prepaid, and/or by email to the following:

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By:



Daniel A. Horwitz, Esq.