

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION**

Kyle Jackson,)	
)	
Plaintiff,)	
)	
v.)	No. 2024 L 006784
)	
Caitlin Dunn,)	
)	
Defendant.)	

MEMORANDUM OPINION AND ORDER

Illinois defamation law requires a plaintiff to prove through sufficient facts that the defendant made false statements about the plaintiff. In the bench trial of this matter before this court, the plaintiff failed to introduce credible evidence establishing that the defendant published several otherwise anonymous defamatory Twitter posts. Without such critical evidence, this court is compelled to render a verdict and enter judgment in the defendant's favor.

Facts

From fall 2015 through spring 2019, Kyle Jackson was a student at Howard University in Washington, D.C. During that time, Jackson pled guilty to several felonies and misdemeanors, including two counts of first-degree unlawful publication, one count of unlawful disclosure, and two counts of stalking. Beginning in June 2016 and continuing into 2018, Jackson received harassing text messages through his phone from anonymous phone numbers. During this period, Jackson also communicated via text message with Caitlin Dunn, who was a student at Howard from 2015 to 2019.

On June 14, 2020, someone posted a message regarding Jackson on Twitter from the website Tellonym. Tellonym is a website that allows a person to answer questions posted by other users while remaining anonymous. The June 14, 2020, posting stated:

- i. "kyle jackson aka KJ very weird and creepy. he allegedly keeps nudes of his exes and exposes them. also allegedly stalks you if you say no to him. please don't find his @ he's rich and will put out a whole smear campaign against you. i'm scared even typing this."

On June 15, 2020, someone posted two more anonymous messages on a Twitter page known as Howard U–Exposed. Howard U–Exposed is a Twitter page on which students may anonymously upload messages about other Howard students. The two postings stated:

- ii. “I know many other girls have stories about KJ from HU19, but whenever they feel comfortable to share, they should come forward. After reading a few about him, I believe I should tell about my encounter with him. I thought he was just a flirt since I have heard through the grapevine that he had a whole girlfriend back home. But when the flirting became manipulative to getting you cross faded to getting you to take hardcore drugs. And you are afraid to say no because of what he might do to you. And then he forces himself on you. He has forced himself on me once which was not consensual. Unfortunately, I saw the nudes of all the girls in his phone that he bragged about. He bragged about one of the girls that he said was his girl back home. I especially feel sorry for her because after our encounter, I tested positive for chlamydia. The next time I saw him at the Banneker party trying to hit on another innocent victim. He’s not a good guy. BEWARE OF KJ JACKSON. Wherever he is now, I hope he gets everything that comes to him!!”
- iii. “KJ Jackson gave me an incurable STD on HU campus. I recently tested positive for it while he took advantage of me while I was under the influence at a party. The last I remember of him, he was hovering over me in his dorm kissing me and I told him no. He laughed. The next time I saw him was that homecoming with his girlfriend. I wanted to say something, but I was afraid. I’m glad the other girls spoke up against him, and now I am. I don’t think the girl he was dating is still with him, because he has dated multiple other girls on campus and had sex with at least 50 others. He begs for sex, keeps nudes of his exes in his phone, and sends unsolicited dick picks. @kylejackson42 on Twitter. @kylejackson21 on instagram. I do not even feel safe typing this. Please keep me anonymous.

Jackson testified that about four days later, on June 19, 2020, Dunn posted a message on Snapchat confessing to having made the three anonymous posts. Lisa Hollis and Erin Jackson testified similarly. Hollis, Jackson’s girlfriend of five years, testified that on June 19, 2020, she received a message on Snapchat containing Dunn’s confession. Erin Jackson, Kyle’s mother, testified that on the same date she also received Dunn’s confession through a direct message on Twitter.

On June 20, 2024, Jackson filed a complaint against Dunn for defamation based on the contents of the three anonymous Twitter messages.

Analysis

The analysis of any defamation claim must begin with reference to the constitutional principle that, “Congress shall make no law . . . abridging the freedom of speech, or of the press. . . .” U.S. Const., amend. I. The first amendment has long been binding on the states through the fourteenth amendment. *See, e.g., Murdock v. Pennsylvania*, 319 U.S. 105, 108 (1943). There are, of course, various constitutional limitations to free speech. One such limitation affects the standard of liability—public figures must plead and prove actual malice. *New York Times Co. v. Sullivan*, 376 U.S. 254, 283 (1964). A second limitation focuses on the content of the speech and affects potential damages—if the speech relates to a matter of public concern, punitive damages are prohibited absent a showing of actual malice. *Philadelphia Newspapers, Inc. v. Hepps*, 475 U.S. 767, 775 (1986). A third limitation affects both liability and damages—if the speech relates to a matter of public concern and is brought against a media publisher, the plaintiff must establish falsity as well as fault. *Milkovich v. Lorain Journal Co.*, 497 U.S. 1, 16 (1990).

Against this backdrop of federal constitutional principles are state laws determining the degree of fault necessary to establish defamation. *See Gertz v. Welch*, 418 U.S., 323, 345-46 (1974). In Illinois, ordinary negligence is sufficient. *Edwards v. Paddock Pubs., Inc.*, 327 Ill. App. 3d 553, 562 (1st Dist. 2001). Thus, to state a common-law defamation claim in Illinois, a plaintiff must allege facts that: (1) the defendant made a false statement about the plaintiff; (2) the defendant made an unprivileged publication of the statement to a third person; and (3) the publication damaged the plaintiff. *Project44 v. FourKites, Inc.*, 2024 IL 129227, ¶ 20; *Green v. Rogers*, 234 Ill. 2d 478, 491 (2009). Statements are defamatory if they tend to harm a person’s reputation by: (1) lowering that person’s reputation in the community; or (2) deterring others from associating with that person. *Id.* *See also Kolegas v. Heftel Broad. Corp.*, 154 Ill. 2d 1, 10 (1992)); *Tuite v. Corbitt*, 224 Ill. 2d 490, 501 (2006). “A statement is defamatory *per se* if its harm is obvious and apparent on its face.” *Id.* The standard of evidence applicable in a defamation case is “a preponderance of testimony.” *Ogren v. Rockford Star Printing Co.*, 288 Ill. 405, 417 (1919).

I. Damages to the Plaintiff

Illinois recognizes defamatory statements *per se* and *per quod*. *Tuite*, 224 Ill. 2d at 501 (citing *Kolegas*, 154 Ill. 2d at 10). “A statement is defamatory *per se* if its defamatory character is obvious and apparent on its face and injury to the plaintiff’s reputation may be presumed.” *Tuite*, 224 Ill. 2d at 501. “Language to be considered defamatory *per se* must be so obviously and naturally harmful to the person to whom it refers that a showing of special damages is unnecessary.” *Owen v. Carr*, 113 Ill. 2d 273, 277 (1986); *see also Harrison v. Addington*, 2011 IL App (3d) 100810

¶ 39 (citing *Bryson v. News Amer. Pubs., Inc.*, 174 Ill. 2d 77, 87 (1996)). Five types of statements are considered defamatory *per se*, those that impute a person: (1) committed a crime; (2) is infected with a communicable disease; (3) cannot perform or lacks integrity to perform employment duties; (4) lacks professional ability; and (5) engaged in consensual sexual intercourse with an unmarried person or with someone outside of marriage. *Green*, 234 IL 2d at 491-92.

Truth is an absolute defense to a defamation claim. *Younge v. Berman*, 2025 IL App (2d) 240354, ¶ 15 (citing *Andrews v. At World Properties, LLC*, 2023 IL (1st) 1220950, ¶ 16). Truth is a defense even if the defamatory statement is not fully or technically accurate. *Harrison v. Chicago Sun-Times, Inc.*, 341 Ill. App. 3d 555, 563 (1st Dist. 2003). Substantial truth only requires that the “gist” or “sting” of the alleged defamatory statement be true. *Id.*

In this case the defense of substantial truth applies, in part, to two statements: (1) the claim that Jackson exposed ex-girlfriends; and (2) the claim that Jackson stalked individuals. A guilty plea and conviction establish a defendant’s culpability for a crime. *Hardiman v. Aslam*, 2019 IL App (1st) 173196, ¶ 23. Moreover, any discrepancies between the actual criminal charges and the alleged defamatory statement are irrelevant if the statement did not “meaningfully alter the uncontroverted” facts. *Id.* The record presented to this court includes information that on August 3, 2022, Jackson pled guilty in the District of Columbia to six offenses: two counts of first-degree unlawful publication; one count of unlawful disclosure; two counts of stalking; and one count of threats. It is undisputed that Jackson admitted culpability for unlawfully publishing compromising photos and stalking individuals. Such admissions establish substantial truth as to part of the Twitter posts.

In contrast, other contents in the anonymous Twitter posts do fall under the defamation *per se* category. A complaint for defamation *per se* need not allege the precise defamatory words, but their substance must be pleaded with sufficient precision and particularity to permit judicial review of the defamatory content. See *Mittelman v. Witous*, 135 Ill. 2d 220, 229-30 (1989). Precision and particularity are also necessary so that the defendant may formulate an answer and identify potential affirmative defenses. *Younge* at ¶ 27 (citing *Green*, 234 Ill. 2d at 492). It is equally true that whether any statement is defamatory and whether any particular statement is an opinion or a factual assertion are both questions of law. *Tuite*, 224 Ill. 2d at 511; *Brennan v. Kadner*, 351 Ill. App. 3d 963, 969 (1st Dist. 2004). In short: “If a statement is factual, and it is false, it is actionable.” *Solaia Tech., LLC v. Specialty Publ. Co.*, 221 Ill. 2d 558, 582 (2006); see also *Seitz-Partridge v. Loyola Univ. of Chicago*, 2013 IL App (1st) 113409 ¶ 29 (“[s]tatements that are capable of being proven true or false are actionable, whereas opinions are not”) (citing *Moriarty v. Greene*, 315 Ill. App. 3d 225, 233 (1st Dist. 2000)).

That grounding is important to understanding the content of the second and third Twitter messages that allege Jackson forced himself on another person without that individual's consent. Statements such as, "he took advantage of me while I was under the influence," and "[h]e has forced himself on me once which was not consensual," are statements of fact that are subject to judicial review. A defamation *per se* claim involves a statement in which an individual is imputed to have committed a crime involving "moral inturpitude" that is "punishable by death or imprisonment rather than by fine." *Jacobson v. Gimbel*, 2013 IL App (2d) 120478, ¶ 27. A conviction of sexual assault in the state of Illinois is a Class 1 felony, 720 ILCS 5/11-1.20; therefore, the accusation that Jackson was convicted of or conducted sexual assault is *per se* defamation if otherwise untrue. *D'Ambrosio v. Rajala*, 2025 WL 1383286, at *6 (N.D. Ill. May 13, 2025).

The second and third Twitter messages also allege that Jackson passed on a sexually transmitted disease. Defamation *per se* includes statements regarding any communicable disease "which, if true, would tend to exclude one from society." *Rosner v. Field Enters. Inc.*, 205 Ill. App. 3d 769, 790 (1st Dist. 1990). No evidence was presented at trial tending to substantiate either the claim that Jackson assaulted Dunn or transmitted a sexual disease to her; consequently, these claims are defamation *per se* if untrue.

II. Unprivileged Publication to a Third Party

The question of whether an otherwise defamatory statement is privileged is one of law for the court. *Kuwik v. Starmark Star Mktg. & Admin., Inc.*, 156 Ill. 2d 16, 25 (1993). If qualified privilege is found, a defamatory message is actionable only if the defendant abused the privilege. *Quinn v. Jewel Food Stores, Inc.*, 276 Ill. App. 3d 862, 871 (1st Dist. 1995). In Illinois, there are three situations in which conditional privilege is recognized: "(1) situations in which some interest of the person who publishes the defamatory matter is involved; (2) situations in which some interest of the person to whom the matter is published or of some other third person is involved; and (3) situations in which a recognized interest of the public is concerned." *Id.* The burden of proving that a conditional privilege exists lies with the defendant. *Kuwik*, 156 Ill. 2d at 27. During the trial, Dunn did not raise any arguments that a qualified privilege existed. If, therefore, Dunn authored the Twitter posts, she would have made an unprivileged publication to a third party.

III. False Statement Made by the Defendant

The central issue of fact in this trial was the identity of the person who posted the defamatory statements. The first prong of a defamation claim requires that the defendant made the false statement. *Younge* at ¶ 47. During the trial, however, Jackson introduced no direct evidence identifying Dunn as the author of the defamatory posts. Rather, Jackson offered his testimony as well as that of

Hollis and his mother that they received a written confession by Dunn in a private message, but without a copy of the actual message.

This court recognizes that when determining the reliability of a confession, all questions as to the very existence of the confession remain relevant. *People v. Whitfield*, 2017 IL App (2d) 140878, ¶ 101. After all, there “cannot be a *reliable confession* without there first being a *confession*.” *People v. Calderon*, 2024 IL App (2d) 240042-U, ¶ 43. In this case, several inconsistencies surround Jackson’s case as it relates to the alleged confession.

First, Jackson testified that he failed to record Dunn’s confession despite its delivery through Snapchat. His trial testimony is, however, notably inconsistent with his affidavit, in which he previously claimed that the message came from Twitter. Prior inconsistent statements “are a vital tool to challenge witness credibility.” *People v. White*, 2011 IL App (1st) 92852, ¶ 52. Inconsistencies between a witness’s trial testimony and previous statements on material issues are “an appropriate method of testing the credibility of the witness.” *Law v. Central Ill. Pub. Serv. Co.*, 86 Ill. App. 3d 701, 706 (4th Dist. 1980).

In this instance, the confession’s method of communication is a material fact. Snapchat is a popular messaging application that allows users to send photographs and messages that disappear after a set period of time. *People v. White*, 2021 IL App (4th) 200354, ¶ 6. Such messages are usually self-deleting by nature. *Id.* In this case, Jackson claims Dunn’s message appeared for only ten seconds, too brief a time for him to record it. In an apparent attempt to corroborate his testimony, Jackson testified that he owned a Samsung Galaxy phone, which requires a user to move a hand in front of the screen to take a screenshot of the message. Yet it was also plain from the testimony that the disappearing-message feature is not available on Twitter. Thus, Jackson’s testimony as to the very method of communication is not credible because it goes to a central fact on which he testified inconsistently between his initial affidavit and his trial testimony.

Jackson’s testimony presents other problems. First, Jackson claims to have attempted to try and copy the message but was unsuccessful because the message lasted only ten seconds and there is no way to retrieve a Snapchat message. This testimony is troubling because it runs counter to Jackson’s presentation at trial as someone who is quite knowledgeable of and adept at using social messaging applications. Second, Jackson could have introduced a document showing that, at a minimum, he had received a message from Dunn on June 19 using Snapchat. Although messages cannot be saved in their entirety, Snapchat does display when an individual last received a message from another user. Such a feature has been acknowledged as competent evidence. *People v. Thompson*, 2021 IL App (4th) 180830-U, ¶ 50. In other words, Jackson had the ability to introduce evidence that

Dunn's private account was the source of some message on June 19. Jackson failed, however, to offer any such evidence at trial.

Hollis testified that she also received the confession from Dunn through the Snapchat platform. Hollis also testified similarly that the ten-second window was too short for her to record the message. Once, again, this court feels compelled to comment on Hollis's apparent familiarity with Snapchat—as evident from her testimony—but also her claimed inability to save a simple message that she received on a familiar messaging application.

Erin Jackson, Kyle's mother, also presented testimony that seemed inconsistent given her familiarity with social media. Erin testified that she received Dunn's confession as a direct message on Twitter. She testified that she then reported the message to Twitter, and left the message alone for the rest of the day. She further testified that when she looked for the message the next day, it had disappeared. Jackson testified that she believed either Dunn or Twitter had deleted the message from their end. In contrast, Dunn testified that it is impossible for a sender to remove a direct message on Twitter.

The testimony regarding the content of Dunn's confession is also troubling. All three witnesses testified that Dunn mentioned herself by her name in the post and claimed to have admitted making the allegedly defamatory posts about Jackson. While Dunn's credibility is highly suspect—she was a highly uncooperative witness and was impeached multiple times—she consistently expressed her disdain for Jackson. Dunn's enmity for Jackson begs the question of why she go to the trouble of sending the three defamatory messages through anonymous websites, but later send an authored confession not just to Jackson, but to his girlfriend and mother. All three witnesses testified as being tech savvy, yet each of them provided an unsatisfying excuse for not recording or copying the confession.

It is also unexplained why the source of the confession was never established. The reason is that, strikingly, no one asked Dunn if she had sent the confession. Without the answer to that question, this court finds it is impossible to conclude that the confession ever existed.

IV. The Harassing Text Messages

Jackson has presented a series of harassing messages from 2016 through 2018 allegedly from anonymous phone numbers. Jackson alleges that Dunn sent those messages and that the defamatory posts on Twitter were a continuation of this harassment. There does not appear to be any Illinois case law addressing the question of how to determine whether a defendant is an anonymous poster in a defamation case. There is, however, case law finding that evidence published by an

anonymous source in a defamation suit does “not even rise to the dignity of hearsay evidence.” *Lodge v. Hampton* 116 Ill. App. 414, 417 (3d Dist. 1904). In *Moore v. Streit*, the Second District found that an anonymous flyer could not be admitted as evidence in a defamation action because there was “no evidence connecting [the] defendant in any way to the flyer.” 181 Ill. App. 3d 587, 599 (2d Dist. 1989). As evidence from an anonymous source was immaterial to the case, it “should not have been admitted into evidence.” *Id.* at 600.

Jackson attempted to link the anonymous text messages with a conversation that occurred between Jackson and Dunn during the same period. Yet the conversation in which Dunn is allegedly identified is markedly different from the texts sent from the anonymous telephone numbers. This fact is important because at least one court outside Illinois that used circumstantial evidence to connect a defendant to an anonymous post did so only because the content was identical to other posts linked to the defendant. *Decker v. Kukucka*, 2011 Md. Cir. Ct. 1, 9 (2011). In this case, the anonymous posts contained strong profanity and threats that were absent in the identified conversation. Additionally, the anonymous messages had a variety of different texting styles, such as the use of emojis, and the numbering of text messages, that were markedly absent in the identified conversation.


Even if this court were to assume that Dunn used the anonymous numbers, Jackson’s proof faces another hurdle as the anonymous text messages are in no way similar in content to the defamatory statements posted online. Not one of these messages ever mentions Jackson having exposed intimate pictures from his past relationships, stalking individuals, passing on a sexually transmitted disease, or sexually assaulting another person. Quite simply, there is no admissible evidence linking the anonymous defamatory messages with the anonymous texts.

It is important to acknowledge that during the discovery phase of this litigation, Jackson could have filed an Illinois Supreme Court Rule 224 petition seeking from Twitter or Tellonym the identity of the anonymous poster. At least one court has permitted such discovery in a defamation action. *Maxon v. Ottawa Publ. Co.*, 402 Ill. App. 3d 704, 709 (3d Dist. 2010). Rule 224 has also previously been used to gain access to identifying information about anonymous users from the websites through which the posts were made. *Brompton Bldg., LLC v. YelpA, Inc.*, 2013 IL App (1st) 120547-U ¶ 10. Jackson certainly could have filed a Rule 224 petition against Tellonym to identify the anonymous poster. As Jackson did not use the discovery methods available to him, this court can only guess whether Dunn posted the defamatory messages online. It certainly is not this court’s job to guess at evidence, and this court should not now confer a benefit at trial on a party that did not take advantage of all available discovery methods. Without sufficient evidence connecting Dunn to the defamatory messages, this court is compelled to conclude that Dunn did not write or publish the defamatory posts at issue.

Conclusion

For the reasons presented above, it is ordered that in this bench trial:

1. A verdict is entered in favor of the defendant, Caitlin Dunn, and against the plaintiff, Kyle Jackson; and
2. Judgment is entered on the verdict.


John H. Ehrlich, Circuit Court Judge

