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IN THE STATE OF SOUTH CAROLINA )  
COUNTY OF SPARTANBURG )

IN THE COURT OF COMMON PLEAS  
SEVENTH JUDICIAL CIRCUIT

Michael J. Ferola, #291941, )  
Plaintiff, )

Civil Action Number:  
2011-CP-42-1329

vs. )

South Carolina Department of Corrections )  
and Shawn Johnson, 297078, )

ORDER

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Defendants. )

SC COURT OF APPEALS

**CASE HISTORY:**

This action was filed on March 18, 2011. The plaintiff is an inmate at the South Carolina Department of Corrections (SCDC). The plaintiff claims that on October 19, 2010 he was assaulted by a fellow inmate by the name of Shawn Johnson. The plaintiff alleges damages in connection with that altercation. Further, the plaintiff's Complaint also made reference to allegations concerning his classification.

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By prior Order, dated May 31, 2012, this Court dismissed certain defendants from this action and ordered that the South Carolina Department of Corrections be substituted as a party defendant. Further, the Court at that time dismissed any and all of the plaintiff's claims as related to issues concerning his classification.

This matter is before me on motion of the South Carolina Department of Corrections for summary judgment. In support of its motion, SCDC has filed an Affidavit of Lt. Christopher Lott.

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**STANDARD OF REVIEW:**

Summary Judgment is proper when there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. See Rule 56, SCRPC. In determining whether any triable issue of fact exists, the evidence and all reasonable inferences must be viewed in the light most favorable to the non-moving party. *Pye v. Estate of Fox*, 369 S.C. 555, 563, 633 S.E. 2d 505, 509 (2006).

**DISCUSSION OF ISSUES:**

The plaintiff in this action alleges he was assaulted by Shawn Johnson, and it appears from his Complaint that the plaintiff's claim is based upon an assertion that Shawn Johnson in some way, shape, or fashion, attacked the plaintiff as an act of retaliation. The plaintiff appears to allege there was some communication between Corrections Officer Lt. Lott and Shawn Johnson that prompted the alleged assault. In the background, the plaintiff further appears to assert that Lt. Lott was made aware that the plaintiff was providing information to the contraband officer about illegal activities. The theory the plaintiff attempts to advance is that Lt. Lott communicated with Shawn Johnson concerning the plaintiff's cooperation with the contraband officer and that such actions prompted and/or motivated Shawn Johnson to engage in an altercation with the plaintiff on October 19, 2010.

The plaintiff advances his theory as set forth above as the basis of liability as to the South Carolina Department of Corrections. The plaintiff's theory, however, is not

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supported by any facts in the record and there is no evidence whatsoever from which the court could infer that Lt. Lott had anything to do with the altercation that occurred between the plaintiff and Shawn Johnson. The affidavit of Lt. Christopher Lott speaks to his knowledge and/or lack of knowledge concerning the events which are the basis of the plaintiff's theory and there are no facts before me from which this Court could reasonably infer that Lt. Lott had communications with Shawn Johnson which would have led to and/or precipitated the altercation which allegedly occurred on October 19, 2010. Further, there is absolutely no evidence in the record from which it could be reasonably inferred that any agent or officer of the South Carolina Department of Corrections had any reason to suspect that an altercation would occur between the plaintiff and Shawn Johnson. Further, there is absolutely no evidence of any acts or omissions which would amount to gross negligence to give rise to liability under the South Carolina Tort Claims Act.

I find that and conclude that the South Carolina Department of Corrections is entitled to summary judgment and its motion should therefore be granted.

It is therefore ORDERED, ADJUDGED, and DECREED that the Motion for Summary Judgment filed on behalf of the South Carolina Department of Corrections is hereby granted and the Complaint is dismissed with Prejudice as to Defendant South Carolina Department of Corrections.

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IT IS SO ORDERED this 15 day of March, 2013.

  
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The Honorable J. Derham Cole  
Circuit Court Judge

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