

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

James Anthony Primus (SCDC #252315),

Plaintiff,

v.

Mr. Brian Stirling, Director of SCDC; Ms.  
Margie Priouleau, Classification, South  
Carolina Department of Corrections,

Defendant.

IN THE COURT OF COMMON PLEAS

FOR THE FIFTH JUDICIAL CIRCUIT

Civil Action No. 2022CP4001642

ORDER OF DISMISSAL

**RECEIVED**

OCT 19 2022

**SC Court of Appeals**

2022 SEP 23 PM 3:09

RICHLAND COUNTY  
FILED

This matter came before the Court upon Motion for Reconsideration filed by Plaintiff on April 27, 2022. For the reasons set forth below, Plaintiff's motion is DENIED and this action is DISMISSED.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Plaintiff, an inmate at the South Carolina Department of Corrections, filed a Summons and Complaint on March 30, 2022. The Complaint alleges "professional legal malpractice," negligence, and breach of fiduciary duty on the part of Defendants. On the same date, Plaintiff filed a Motion and Affidavit to Proceed *In Forma Pauperis*. That motion was reviewed and denied by Order filed April 13, 2022. In its denial, the Court required Plaintiff to pay the requisite filing fee in full no later than June 1, 2022, or face dismissal of his Complaint.

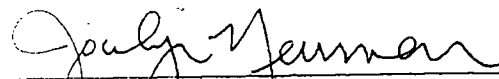
Plaintiff did not pay the filing fee as required. Instead, on April 27, 2022, Plaintiff filed a Motion for Reconsideration. In that motion, Plaintiff attempts to characterize this action as a constitutional complaint, alleging for the first time that Defendants have violated his rights pursuant to the Fifth, Sixth, and Fourteenth Amendments to the Constitution of the United States.

"In the absence of a statutory provision allowing the general waiver of filing fees, we conclude motions to proceed in forma pauperis may only be granted where specifically authorized by statute or required by constitutional provisions." *Martin v. State of South Carolina*, 321 S.C. 533, 535, 471 S.E.2d 134, 134-35 (1995) (citations omitted). "Further, where certain fundamental rights are involved, the Constitution requires that an indigent be allowed access to the courts." *Id.* at 535, 471 S.E.2d at 135.

In this case, however, Plaintiff seeks monetary damages totaling \$250,000 for allegations made pursuant to the South Carolina Tort Claims Act. Despite Plaintiff's attempts to reclassify his claims (in the Motion for Reconsideration), it is clear from the face of the Complaint that his allegations sound in tort law rather than constitutional law. No relevant statutory provision applies here, and no fundamental rights are implicated by this claim; therefore, no waiver of filing fees is required of this Court. In addition, the Court notes that granting Plaintiff's motion for reconsideration would be futile, as he has failed to follow the requirements set forth in S.C. CODE ANN. §15-79-125 (2005), and the Complaint appears to fail under Rules (a) and 12(b)(6) of the South Carolina Rules of Civil Procedure.

IT IS, THEREFORE, ORDERED that Plaintiff's Motion for Reconsideration is DENIED, and this matter is DISMISSED.

AND IT IS SO ORDERED.

  
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JOCELYN T. NEWMAN  
Chief Administrative Judge

September 22, 2022  
Columbia, South Carolina.