

STATE OF SOUTH CAROLINA

COUNTY OF OCONEE

Dennis Temple,

Plaintiff

vs.

State of South Carolina, et al,

Defendant.

IN THE COURT OF COMMON PLEAS

Case No. 2022CP3700276

RECEIVED

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SC Court of Appeals

ORDER DENYING PLAINTIFF'S MOTION TO
ALTER OR AMEND JUDGMENT

This matter comes before the Court pursuant to Plaintiff's Motion to Alter or Amend Judgment (the "Motion"). Plaintiff has represented himself throughout this matter. This Motion arises out of a dismissal of the action which resulted from a hearing on November 15, 2022. The State moved to dismiss on various grounds, and the other Defendants joined in the State's motion. All parties appeared virtually, and Assistant Attorney General Carly Davis gave the crux of the arguments for dismissal. After consideration of the arguments presented by both sides, this Court granted the Defendants' motion to dismiss by written order filed November 18, 2022. Mr. Temple then filed the present Motion on December 14, 2022.

Rule 59, SCRCF establishes the basis for filing a motion to alter or amend judgment and the requirements which accompany such a motion. Importantly, Rule 59(e) and Rule 59(g), SCRCF provide that the motion to alter or amend must be filed within ten days after receipt of the order and that the filing party must provide the judge with a copy of the motion within ten days of filing. In order for Mr. Temple's Motion to have been timely filed, he could not have received the order of dismissal before December 4, 2022, seventeen days after the order was filed. Such a delay strains credulity. Therefore, Plaintiff's Motion was not timely filed.

Even if there was an unprecedented delay at the Post Office, Plaintiff still has not served this Court with a copy of his Motion. This violates Rule 59(g), SCRPC and provides an independent basis to deny the Motion. "Rule 59(g) would lack any purpose if trial courts committed error by denying the motion for failure to comply with the rule. Further, our language in *Gallagher v. Evert*, 353 S.C. 59, 63-64, 577 S.E.2d 217, 219 (Ct. App. 2002) implies a trial court may deny the motion solely on the basis of the rule." *Smith v. Fedor*, 422 S.C. 118, 126, 809 S.E.2d 612, 616 (Ct. App. 2017).

Therefore, based on Plaintiff's untimeliness in filing the Motion and in serving it on this Court, the Motion is hereby DENIED.

AND IT IS SO ORDERED this _____ day of January, 2023.

Debra R. McCaslin
Presiding Judge
Tenth Judicial Circuit

Walhalla, South Carolina

[E-SIGNATURE PAGE TO FOLLOW]



Oconee Common Pleas

Case Caption: Dennis M Temple VS South Carolina State of , defendant, et al
Case Number: 2022CP3700276
Type: Order/Amend

So Ordered

Debra R. McCaslin

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