

REVISED RECORD ON APPEAL
THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

DeAndrea Gist Benjamin, Circuit Court Judge

CASE NO. 2022-001512

Edward Tyrone Hills, Appellant,

v

Dean, University of South Carolina, Respondent

RECORD ON APPEAL

Edward Tyrone Hills
4711 Forest Drive
Suite 3, P.O. Box 221
Columbia, SC 29206
1 (803) 599-9152
Hillsedward06@gmail.com

Ms. Rachel Moore Hutchens
Mr. Monteith Powell
P.O. Box 11449
Robinson Gray, Litigation & Business
Columbia, SC 29211
Attorney(s) for the Respondent
1(803) 929-1400
rhutchens@robinsongray.com
mtodd@robinsongray.com

RECEIVED

FEB 24 2023

SC Court of Appeals

REVISED INDEX

COMPLAINT

SUMMONS (December 23, 2021)	1
AFFIDAVIT OF SERVICE (January 7, 2022)	2
COPY OF ENVELOPE (Mailed February 7, 2022) (RECEIVED February 10, 2022)	3
APPLICATION FOR ENTRY OF DEFAULT AND SUPPORTING AFFIDAVIT ... (February 9, 2022)	4
AFFIDAVIT IN SUPPORT OF ENTRY OF DEFAULT	5
(February 9, 2022)	
FORM 4 – STATEMENT OF JUDGE BY COURT	6
(Filed September 22, 2022)	
BRIEF ANSWERING THE MOTION TO DISMISS	7-1
(Filed October 4, 2022)	
APPELLANT’S TESTIMONY (September 21, 2022)	
Transcript	
Page 8, lines 18-25	8
Page 9, lines 1-9	9
Page 9, lines 19-25	9
Page 10, lines 1-5	10
Page 11, lines 3-13	11
Page 12, lines 11-12	12

INDEX (Continued)

ANSWER

RESPONDENT ANSWERED WITH A DISMISSAL LETTER WHICH DID NOT GET
TO THE APPELLANT UNTIL LATE.
See stamped envelope dated February 7, 2022 A
Received February 10, 2022

RESPONDENTS DESIGNATION OF MATTER

Respondent's Motion to Dismiss dated February 7, 2022 B1-B3

Complete Transcript of Circuit Court Hearing dated
September 21, 2022 C1-C13

Order Granting Motion to Dismiss dated October 24, 2022 D1-D3

All documents identified in Appellant's Designation of Matter for Record on
Appeal 1 - 12

February 24, 2023

s/Edward Tyrone Hills

4711 Forest Drive,

Ste 3, P. O. Box 221

Columbia, SC 29206

803 599-9152

HillsEdward06@gmail.com

Ms. Rachel Moore Hutchens

Mr. Monteith Powell

P.O. Box 11449

Robinson Gray, Litigation & Business

Columbia, SC 29211

Attorney(s) for the Respondent

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STATE OF SOUTH CAROLINA,

COUNTY OF Richland

Edward Tyrone Hills

Plaintiff,

vs.

Dean University of South Carolina

Defendant.

IN THE COURT OF COMMON PLEAS

SUMMONS

2021CP400

FILE NO. -CP-

TO THE DEFENDANT ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the complaint herein, a copy of which is herewith served upon you, and to serve a copy of your answer to this complaint upon the subscriber, at the address shown below, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the complaint, judgment by default will be rendered against you for the relief demanded in the complaint.

Columbia

, South Carolina

Edward T. Hills

Edward Tyrone Hills

Plaintiff/Attorney for Plaintiff

Dated: 12/23/2021

Address:

4711 Forest Drive, Suite 221
Columbia, SC 29206-4810

proof case ✓

RICHLAND COUNTY
FILED
2021 DEC 23 AM 9:05
JEANE E. W. MARRIS
C.C.P., G.S. § 14-2-10



Richland County Sheriff's Department

DEC 3 2021

AFFIDAVIT OF SERVICE or NON-SERVICE

Date Entered: 12/29/2021
File Number: C202106687
DSS Number: 0
Foreign Case #: 2021cP4006223

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

Date _____

Plaintiff

Edward Tyrone Hills 4711 Forest Dr. Suite 221 Columbia, SC 29206
Phone: (803)599-9152 Work:

Defendant(s)

Dean University of SC (Dean Samuels, Joel) Petigru 300 Columbia, SC 29201
Phone: (803)777-9939 Work:

PERSONALLY APPEARED Before Me P. Wilkes, duty sworn says that he/she served, or attempts to serve, the following civil paper(s):

Summons & Complaint

1

on the defendant DEAN Univ. of SC, as follows:

() By personally handing the process to the defendant at _____, SC
(Street)
on _____
(Date/Time)

() By handing the process to _____ at _____
(Name of Person Served/Relationship) (Street)
_____, SC on _____, a person of suitable age and discretion then residing in
(City) (Date/Time)
the defendant's usual place of abode.

✓ By handing the process to Walter (Terry) H. Parham, the registered corporate agent or officer of the company at
(Name of Person Served/Company Name)
109 Osborne Adm. Bldg. Columbia, SC on 01/07/22-10:32 AM and leaving him/her a copy.
(Street) (City) (Date/Time)

() WAS UNABLE to locate and serve the above process on the defendant, after diligent efforts by checking the City/Telephone Directory, and going to the address given for the defendant, and by questioning persons in the vicinity of the address.
THE PROCESS IS RETURNED UNEXECUTED.

() COMMENTS: _____

Deponent knows the person served to be the defendant and Deponent is not a party to the action.
SWORN TO Before me this

7 day of January 2022

P. Wilkes
Deputy Sheriff, Richland County

P. WILKES
S# 1195

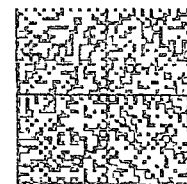
NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES
P.O. Box 143 Columbia, SC 29202

KENNETH COLEMAN
Notary Public, South Carolina
My Commission Expires
July 15, 2024



ROBINSON
GRAY

Litigation + Business



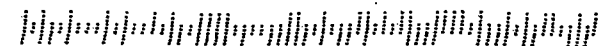
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02/07/2022 ZIP 29201
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US POSTAGE

RECEIVED ON 2/10/22 in DECAIT
~~It was~~

Edward Tyrone Hills
4711 Forest Drive, Suite 221
Columbia, SC 29206-4810

DECAIT
2920633125 C062



10129-1012

IN THE COURT OF COMMON PLEAS

STATE OF SOUTH CAROLINA

EDWARD TYRONE HILLS

Petitioner/Plaintiff,

Vs.

DEAN, UNIVERSITY OF SOUTH
CAROLINA

Respondents/Defendants

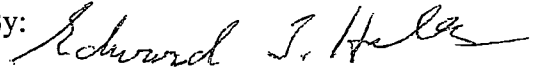
NO. 2021CP400

APPLICATION FOR ENTRY OF
DEFAULT AND SUPPORTING AFFIDAVIT

RICHLAND COUNTY
FILED
2022 FEB - 9 AM 9:39
JEANETTE W. McBRIDE
C.C.P., G.S., & F.C.

COME NOW the Plaintiff, EDWARD TYRONE HILLS, requests the Clerk, pursuant to Rule _12____, FEDERAL Rules of Civil Procedure, to enter default against the Defendant, DEAN, UNIVERSITY OF SOUTH CAROLINA, in the above entitled action for failure to plead, answer or otherwise defend as set forth in the Affidavit attached hereto.

Respectfully submitted,

By: 

EDWARD TYRONE HILLS
4711 Forest Drive, Suite 221
Columbia, SC 29206-4810

AFFIDAVIT IN SUPPORT OF ENTRY OF DEFAULT

STATE OF South Carolina)

COUNTY OF Richland)

PERSONALLY CAME AND APPEARED BEFORE ME, the undersigned authority in and for the jurisdiction aforesaid, the within named EDWARD TYLER HILLS, who, having first been duly sworn by me, stated on oath the following:

1. A copy of the Summons, together with a copy of the Complaint, was served upon the Defendant by P. Wilkes, on January 7, 2022. Pursuant to Rule 12, Federal Rules of Civil Procedure, service of process was deemed complete on Defendant on January 7, 2022, an Entry of Appearance of Counsel was filed on behalf of Defendant on February 7, 2022.

2. That more than thirty days have elapsed since the date on which the said Defendant was served with Summons and a copy of the Complaint.

3. That the Defendant has failed to answer or otherwise defend as to Plaintiff's Complaint, or serve a copy of any Answer or other defense which he might have.

4. That this Affidavit is executed by affiant herein in accordance with Rule 12, Federal Rules of Civil Procedure, for the purpose of enabling the Plaintiff to obtain an entry of default against the Defendant for his failure to answer or otherwise defend as to the Plaintiff's Complaint.

Edward T. Hills
SWORN TO AND SUBSCRIBED BEFORE ME, this the 9th day of February, 2022

Elia Pitts
NOTARY PUBLIC

My commission expires
03/01/2024

FILED
2022 FEB -9 AM 9:39
JEANETTE W. MCBRIDE
C.C.P., G.S., & F.C.
RICHLAND COUNTY

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NUMBER: 2021-CP-40-06223

Edward Tyrone Hills

Dean University of South Carolina

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: _____

Attorney for : ☐ Plaintiff ☐ Defendant or ☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit);
☐ Rule 43(k), SCRPC (Settled); ☐ Other _____
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other _____
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court:

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.

Additional Information for the Clerk:

This matter comes before the Court on a Motion for Entry of Default filed by Plaintiff Edward Tyrone Hills and a Motion to Dismiss in lieu of an Answer filed by Defendant Dean University of South Carolina. A hearing on the motions was held on September 21, 2022 in Richland County, South Carolina. Plaintiff, appearing Pro Se, and Defendant, represented by Ms. Rachel Hutchens, were present.

After consideration of the motions and arguments by the parties, this Court finds that Defendant timely filed its Motion to Dismiss in lieu of an Answer pursuant to 12(b)(6) within 30 days after service of the complaint. Therefore, Defendant has appropriately responded to Plaintiff's Complaint and Plaintiff is not entitled to an entry of default. Plaintiff's Motion for Entry of Default is, hereby, **DENIED**.

To give Plaintiff an opportunity to file a written response to Defendant's Memorandum in Support of its motion, Defendant's Motion to Dismiss in lieu of an Answer is continued to the next available non-jury term of court.

IT IS SO ORDERED.

INFORMATION FOR THE PUBLIC INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled
---	---------------------------------------	--------------------------------

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

FIFTH JUDICIAL CIRCUIT

COUNTY OF RICHLAND

CASE NUMBER: 2021CP4006223

Edward Tyrone Hills

Plaintiff

vs

Dean, University of South Carolina

Defendant

BRIEF

RICHLAND COUNTY
FILED
2022 OCT -4 AM 11:13
JEANETTE M. McBRIDE
C.C.P., G.S., & F.C.

The plaintiff, Edward T. Hills, submits this Brief, for the reasons set forth below, and the Court should grant Edward T. Hills Motion.

The summons is a legal document. It is an "absolute" document. The summons says "YOU ARE HEREBY SUMMONED and required to answer the complaint herein, a copy of which is herewith served upon you and TO SERVE a copy of your answer to this complaint upon the subscriber at the ADDRESS SHOWN BELOW, within 30 days after service hereof, exclusive of the day of such service, and if you fail to answer the complaint, judgment by default WILL BE rendered against you for the relief demanded in the complaint."

The defendant is in default. The defendant received the Affidavit on January 7th, 2022. The Plaintiff received the answer to the complaint on February 10th, 2022; therefore, defendant IS in default. Electronic filing of the Summons has nothing to do with the Plaintiff receiving the Summons, the Summons is a legal document that should be answered by the defendant in written form and delivered to the Plaintiff.

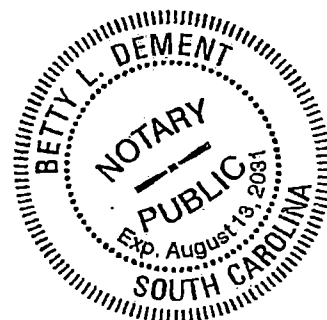
The plaintiff had a hearing on September 21st, 2022. The plaintiff never received the information concerning the directions for entering a brief or memorandum to the judge, the paperwork did not get to the plaintiff until September 15th, 2022, which the date to file a brief or memorandum was September 14th to the judge. This was a flagrant breach of court proceedings during the hearing. The plaintiff never had an opportunity to defend himself. The judge had already found the default judgment in "judgment for the defendant" the plaintiff had to object when the judge allowed the defendant to start their opening statement, stating their memorandum, and let her know that the plaintiff never had the opportunity to file a brief or memorandum due to the clerk of court never sent the plaintiff the paperwork in time. The defendant is in default not because of the electronic filing but because of the summons "A absolute document" which states that they had to have a written answer to the complaint within 30 days or judgment and relief is for the plaintiff in this case it will be \$100 million dollars.

DATE: October 4, 2022

Edward T. Hills

EDWARD T. HILLS
4711 Forest Drive, Suite 221
Columbia, SC 29206

Signed before this
4th day of October 2022
Betty L. Dement
NOTARY PUBLIC



1 7th, 2022. Can you see this, Your Honor, the paperwork that
2 was filed by Sheriff -- Sheriff Leon Lott of Richland County
3 and it was answered by Walter Carey H. Parham, which is
4 general counsel for the University of South Carolina.

5 So it was filed on 1/7/22. And when we received
6 it -- we didn't receive it till February 10th of 2022.
7 February --

8 THE COURT: When did you mail -- when did you file
9 your motion to dismiss in lieu of an answer?

10 MS. HUTCHENS: We filed the motion on February
11 7th, Your Honor, electronically. And because Mr. Hills is
12 pro se, we then put it in the mail that same day. He may
13 not have received it until the 10th, but we filed it on the
14 7th.

15 THE COURT: And we go by the date she filed it,
16 sir. And so it sounds like it was filed within the time
17 period.

18 MR. HILLS: Well, the thing about it is, she
19 electronically filed it and she electronically filed what
20 you said was a dismissal. But according to the summons, as
21 the summons reads, that you -- that you have to send me a
22 copy of the answer to the complaint. And the complaint has
23 to be sent to me within 30 days or judgment by default would
24 be rendered against you for the relief demanded in the
25 complaint. And this is what I read the summons and that's

1 what the summons, that's the law.

2 Now, that's -- she didn't do that, she did it
3 electronically. There's no reason for me to look up
4 electronically. I'm not a person that look on a computer.
5 You have to send to me by the paperwork that I sent to her.
6 I sent it to her and it was sent to her by paperwork and the
7 summons says she has to send it back to me by paperwork in
8 time, in 30 days, in a 30-day period, and she didn't, Your
9 Honor.

10 THE COURT: Ma'am.

11 MS. HUTCHENS: Your Honor, we filed our motion
12 within the time frame. We then mailed it to him. If the
13 fact that he received it -- I mean, we complied with the
14 rules and filed it within the 30 days.

15 MR. HILLS: I have a witness to that fact that
16 shows that --

17 MS. HUTCHENS: I understand that he received it
18 later, but it was filed.

19 THE COURT: ~~If I were you -- sir, she filed it~~
20 ~~within the 30 days. And the rules require that it be filed~~
21 ~~within the 30 days, and she's filed it within the 30 days.~~
22 ~~And I think you get -- I'll have to look at the mailing~~
23 ~~requirements, but it was placed in the mail to you, which is~~
24 ~~why you got it on the 10th. I'm assuming she placed it in~~
25 ~~the mail.~~

THE SUMMONS IS THE RULE
OF CIVIL PROCEDURE
P

1 MR. HILLS: But where is the summons? The
2 summons, in fact, the rules and regulations. I signed it.
3 I signed the summons and it was sent out to them. That's
4 not -- that's the rules and regulations that they honor the
5 summons?

6 THE COURT: We go by the Civil -- Rules of Civil
7 Procedure, sir. And so you -- she filed and we go by the
8 Clerk's Office so we won't have to dispute when the mail was
9 sent or the mail was slow or if the mail was lost, but her
10 answer had to be filed within the 30 days and she filed the
11 answer in the 30 days and then she sent you a copy of the
12 answer showing that it was filed within 30 days, all right?

13 MR. HILLS: She filed a dismissal motion.

14 THE COURT: Well, her motion for dismissal in lieu
15 of an answer, sir.

16 MR. HILLS: Well.

17 THE COURT: She's not -- based on what I can see
18 and tell they're not in default. And so, I mean, because
19 the mail -- we can't go necessarily by when the -- when you
20 received it in the mail. It's when she filed and it's
21 stamped with the Court. And it doesn't seem as if anyone is
22 disputing that she filed it on February the 7th.

23 MR. HILLS: Yeah, she filed it electronically on
24 February the 7th.

25 THE COURT: Well, that's how we file stuff, sir.

1 We file things electronically, that is our method of filing.

2 And so --

3 MR. HILLS: But the only problem I have with
4 that -- and the only problem I have with that is filing a
5 dismissal motion underneath a default motion which I felt
6 that a default motion should be absolute, because a
7 default -- I'm in business, I've been in business. If my
8 bid is late, they throw it out, it's in default. Anything
9 like that, if I don't do my paperwork right, it's in
10 default. And that's -- the only thing that know that if
11 you're in default, you're in default because you didn't do
12 your paperwork right.

13 THE COURT: Right.

14 MR. HILLS: And this, they --

15 THE COURT: I'm not -- I'm not going to find that
16 she's in default because she filed her answer within the 30
17 days as per the Rules of Civil Procedure. So they
18 electronically filed them within the 30 days. So I'm going
19 to deny the motion for entry of default.

20 And so then she's filed a motion to dismiss.
21 You've asked for additional time, because you said you've
22 just received the memorandum of law, although she filed
23 it -- she filed the motion in February, but you did not get
24 the memo until last week or early this week?

25 MR. HILLS: I just got the information yesterday

1 from my P.O. Box.

2 THE COURT: Okay.

3 MS. HUTCHENS: And I hadn't had anything. Like I
4 said, Clerk of Court sent me the information.

5 THE COURT: I'll continue the motion to the next
6 term so you'll have an opportunity to respond to her motion
7 to dismiss.

8 MR. HILLS: Well, I'm going to have to do some
9 research.

10 THE COURT: Yes, sir.

11 ~~MR. HILLS: I'm going to have to do some research,~~
12 ~~here, because it's -- I really went up on this summons.~~

13 THE COURT: Okay.

14 MR. HILLS: Because I put my paperwork, the
15 paperwork says what it says, I've been reading. My momma
16 was an english teacher.

17 THE COURT: Okay.

18 MR. HILLS: And this is what the summons say.

19 THE COURT: We operate under the Rules of Civil
20 Procedure, so you can take a look at the Rules of Civil
21 Procedure. We'll have, Ms. Bora, I think if you can put
22 this -- the motion to dismiss on the next docket that would
23 be great. All right?

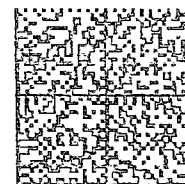
24 MR. HILLS: Okay.

25 THE COURT: Thank you.



ROBINSON
GRAY

Litigation + Business



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02/07/2022 ZIP 29201
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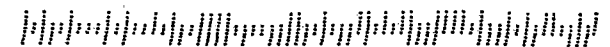
US POSTAGE

RECEIVE ON 2/10/22 in DECA 1st
~~It was~~

Edward Tyrone Hills
4711 Forest Drive, Suite 221
Columbia, SC 29206-4810

DECA 1st

2920633125 C062



10129-1512

DE Fault / Did not RECEIVE until
10th of February

ELECTRONICALLY FILED - 2022 Feb 07 2:30 PM - RICHLAND - COMMON PLEAS - CASE#2021CP4006223

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND) FIFTH JUDICIAL CIRCUIT

Edward Tyrone Hills,) Civil Action No. 2021-CP-40-06223

Plaintiff,)

vs.)

Dean, University of South Carolina,)

Defendant.)

DEFENDANT'S NOTICE OF MOTION
AND MOTION TO DISMISS

TO: EDWARD TYRONE HILLS, THE ABOVE-NAMED PLAINTIFF:

YOU WILL PLEASE TAKE NOTICE THAT the defendant Dean, University of South Carolina ("USC") will move before the Presiding Judge of the Court of Common Pleas for Richland County at 10:00 A.M. on the tenth day after service hereof, or as soon as counsel may be heard, for an Order dismissing the Complaint pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure.

The basis of this Motion is two-fold. As a fundamental matter, the Complaint fails to state facts sufficient to constitute a cause of action against defendant USC for both of plaintiff's two (2) causes of action. First, the plaintiff has failed to allege facts sufficient to state a cause of action for defamation. The plaintiff has alleged that the defendant USC made an alleged, unspecified threat "to slander the name of [the plaintiff]" and that the plaintiff has not received any further work "from building owners." Compl. ¶ III (C). These allegations are not sufficient to allege the elements of a defamation cause of action. See Garrard v. Charleston Cty. Sch. Dist., 429 S.C. 170, 190, 838 S.E.2d 698, 709 (Ct. App. 2019) ("To establish a defamation claim, a plaintiff must prove: (1) a false and defamatory statement was made; (2) the unprivileged

statement was published to a third party; (3) the publisher was at fault; and (4) either the statement was actionable regardless of harm or the publication of the statement caused special harm.”).

Similarly, the plaintiff has also failed to allege facts sufficient to state a claim pursuant to 42 U.S.C. §1983 because the plaintiff denies that the defendant USC acted under color of state or local law. Compl. ¶ II (D). See Charleston Joint Venture v. McPherson, 308 S.C. 145, 152, 417 S.E.2d 544, 549 (1992) (“Section 42 U.S.C. § 1983 imposes liability upon any person who, under color of state law, subjects any citizen to the deprivation of any rights, privileges or immunities secured by the constitution.”). See also, Murray v. Singhi, C.A. No. 0:09-451-PMD-PJG, 2009 WL 2447987, at *5 (D.S.C. Aug. 7, 2009) (“To state a claim for damages under section 1983, an aggrieved party must allege: (1) that he or she was injured; (2) by the deprivation of any rights, privileges, or immunities secured by the Constitution and laws of the United States; (3) by a person acting under color of state law.”). Further, defamation of character provides an insufficient basis to maintain a §1983 claim as alleged in the Complaint. Compl. ¶ II (B). See, Paul v. Davis, 424 U.S. 693, 711-12 (1976) (interest in reputation alone does not implicate a liberty or property interest sufficient to invoke due process protection under §1983).

Moreover, the plaintiff failed to file his Complaint within the applicable statute of limitations as to both his claim for defamation and his claim pursuant to 42 U.S.C. §1983. The plaintiff alleges that the purported conduct at issue arose during the plaintiff’s renovation of flooring at USC Salkehatchie. Compl. ¶ III (C). Although the plaintiff does not allege the specific date or time of the alleged defamation, the renovation at issue and relationship between the defendant USC and plaintiff occurred between 2013 and 2014. Therefore, the plaintiff’s claims are barred by the applicable statutes of limitations and should be dismissed. See S.C. Code Ann. § 15-3-550(1); see also, Brannon v. Blanton, No. CV 9:15-2434-CMC, 2016 WL 4232886, at *2

(D.S.C. Aug. 11, 2016) (“[T]he statute of limitations for § 1983 claims arising in South Carolina is three years[.]”).

This Motion will be supported by a memorandum, affidavits, and/or the applicable law that will be filed prior to or at the time of the hearing in this matter. Given the nature of this Motion, consultation with the opposing party was not necessary.

Respectfully submitted,

ROBINSON GRAY STEPP & LAFFITTE, LLC

BY: s/ Monteith P. Todd

Monteith P. Todd

SC Bar No. 5591

Rachel M. Hutchens

SC Bar No. 78303

1310 Gadsden Street

Post Office Box 11449

Columbia, SC 29211

Tel: 803-929-1400

Email: mtodd@robinsongray.com

rhutchens@robinsongray.com

Counsel for Defendant

Columbia, South Carolina

February 7, 2022

PARTIAL
Transcript

STATE OF SOUTH CAROLINA

) TRANSCRIPT OF RECORD

COUNTY OF RICHLAND

) CASE NO. 2021-CP-40-06223

September 21, 2022

BEFORE: The Honorable Judge DeAndrea Benjamin

Edward T. Hills,

Plaintiff,

vs.

Dean, University of South Carolina,

Defendant.

RECEIVED

Nov 21 2022

SC Court of Appeals

APPEARANCES:

Edward T. Hills
Pro Se Plaintiff

Rachel Hutchens, Esq.
Attorney for the Defendant

Official Court Reporter,
Cynthia D. Weaver

P-R-O-C-E-E-D-I-N-G-S

THE COURT: All right. The next case -- is anyone on for 2021-CP-40-6223, Edward Tyrone Hills versus Dean, University of South Carolina?

MS. HUTCHENS: Good afternoon, Your Honor.

THE COURT: Good afternoon.

MR. HILLS: Your Honor.

THE COURT: We're here. Okay. All right. So there are two motions. One filed by the plaintiff and one by the defendant. The -- it looks like the defendant filed -- plaintiff filed a motion for default and has a supporting affidavit. And the defendant has filed a 12(b) motion.

All right. I'll be glad to hear from Ms. Hutchens, you represent the University?

MS. HUTCHENS: Yes, Your Honor.

THE COURT: Mr. Hills, you are representing yourself?

MR. HILLS: Yes, Your Honor. I really will have to object for you hearing anything from USC at this time, because I never received any information concerning this hearing. I only received the hearing 12 -- September the 14th, 2022, about the hearing and I inquired to the Clerk of Court by email when the hearing was going to be. And they sent me an email about the hearing and then the schedule of notice was finally received to the plaintiff by mail on

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1 September the 15th.

2 So I didn't receive any information, wasn't able
3 to write any motions, and didn't receive anything concerning
4 the defendant until today. So I have to object to all of
5 that. As a matter of fact, I would like to make an oral --
6 when I get into my case, I would like to make an oral
7 motion, so that I could make a motion, because I couldn't
8 make a written motion, because it was given to me too late.

9 THE COURT: When did you get notice?

10 MR. HILLS: I got notice from the Clerk of Court
11 once we emailed them on September the 14th. And I think you
12 had on your -- on the paperwork that you had to have that
13 you needed it, then input a writ to the Court that it had to
14 be in on the 14th and I didn't get it until the 14th, and
15 the letter itself didn't come here until the 15th.

16 And I -- and so I didn't know anything about this
17 at all. I didn't have time to enough to do anything with
18 it, because it was supposed to be in by the 14th by your
19 paperwork.

20 THE COURT: All right. So this is your -- one of
21 them is your motion.

22 MR. HILLS: I've got information to do my case.
23 I'm ready to do my case. But this, what they have here is a
24 total surprise because I have a default motion and they have
25 tried to put a dismissal motion underneath my case. And,

1 like I said, I haven't had any time to look over anything
2 and I didn't have time to write you any motions that I
3 wanted to write. So like I said, inside out, I've read my
4 case, I wanted to have an oral motion towards what was going
5 on if I could.

6 THE COURT: Ms. Hutchens. Ms. Hutchens, did you
7 give him -- when did he get your memo?

8 MS. HUTCHENS: We mailed -- we -- when we
9 submitted the memo we copied Mr. Hills on the last known
10 email address we had and we put it in the mail that day. I
11 don't know when he received it, but our memo essentially
12 repeats what is in our motion and we sent him a copy of our
13 motion when it was filed months and months ago.

14 MR. HILLS: No. You filed it on the 14th, you
15 sent it on the 14th. We have the --

16 MS. HUTCHENS: Right.

17 MR. HILLS: -- copy of the envelope and it has on
18 it the date that you -- you mailed it was on the 14th.

19 MS. HUTCHENS: Our motion was filed on
20 February 7th of 2022.

21 MR. HILLS: Oh, yes. The motion that you filed --
22 you filed on the 7th was a --

23 MS. HUTCHENS: Motion.

24 MR. HILLS: -- a motion to dismiss and you didn't
25 file the motion what she was supposed to file for a default

1 motion. Yes, you filed it months ago a default motion -- a
2 dismissal motion, not a default motion.

3 MS. HUTCHENS: Your Honor, I'd just like to
4 explain a little bit.

5 The defendant filed a 12(b)(6) motion to dismiss
6 in lieu of an answer. We sent a copy of that motion back in
7 February to Mr. Hills. Mr. Hills subsequently filed a
8 motion to dismiss essentially saying we had failed to file
9 an answer.

10 MR. HILLS: No, I never filed a motion to dismiss,
11 ma'am.

12 THE COURT: Hold on. Sir, sir, sir, sir. Let her
13 finish speaking.

14 MS. HUTCHENS: And my understanding is that
15 there's a motion for entry of default, sorry.

16 MR. HILLS: Right. Thank you.

17 MS. HUTCHENS: For the failure to answer the
18 defendant. The defendant did not file an answer, the
19 defendant filed a 12 (b) (6) motion in lieu of an answer. I
20 did file a response to Mr. Hills' motion for entry of
21 default last week. I've provided a copy to him as best we
22 knew how, provided a copy to Your Honor.

23 I think there might be some confusion about an
24 answer versus a motion in lieu of an answer. But I'm happy
25 to answer any questions as to the two motions and however

1 Your Honor would like to proceed.

2 THE COURT: All right. So he's saying he's not
3 had an opportunity as to your motion to respond to your
4 memorandum?

5 MS. HUTCHENS: Is it that or my response to his
6 motion that he didn't -- that --

7 THE COURT: I thought he's saying he didn't have
8 an -- he's -- I think -- are you ready to go forward on your
9 case mister -- on your --

10 MR. HILLS: I'm ready to go forward on my side on
11 my case on the default motion, which I filed February the
12 9th.

13 THE COURT: Right.

14 MS. HUTCHENS: Your Honor, we did provide our
15 memo. I sent it to him.

16 MR. HILLS: Yeah, she sent a letter electronically
17 on February the 7th. It did not have anything to do with
18 the default motion. It was a dismissal motion that she
19 electronically filed on the 7th.

20 MS. HUTCHENS: And we then also mailed it to you
21 in February and that was an exhibit to our response that was
22 filed on Wednesday.

23 So I don't know, Your Honor, to just talk through
24 this motion and then address ours second.

25 MR. HILLS: We got -- excuse me, ma'am. We got a

1 letter from you when you left -- you -- you -- we got it
2 February the 10th which was late. The motion -- it was
3 supposed to be for me to February the 7th and it didn't get
4 to me until February the 10th, ma'am. That's the letter you
5 filed and inside the letter was a dismissal motion, not
6 anything to do with the default motion.

7 THE COURT: All right. So this is what I'm going
8 to do. He says he's ready to proceed on his. Let me hear
9 that and then if we need to continue the 12(b)(6) motion.

10 But what I think I'm hearing is that -- so in lieu
11 of filing an answer, it sounds like y'all filed a motion --
12 I mean, a motion --

13 MR. HILLS: To dismiss.

14 THE COURT: Yes. And that is allowable, sir,
15 under the rules, so that doesn't mean she's in default. So
16 the question is: Did she file that within the 30-day period
17 after he served the summons and complaint on y'all?

18 MR. HILLS: She didn't. I have a witness to that,
19 Your Honor, and I would like to mention her name as Victoria
20 Hills. She will be a witness to that fact. She checks my
21 mail every day. And she will be a witness to the fact that
22 when the letter came and when it arrived.

23 THE COURT: When did -- when did you file -- when
24 was the -- when were served when was the University served?

25 MR. HILLS: The University was served on January

1 7th, 2022. Can you see this, Your Honor, the paperwork that
2 was filed by Sheriff -- Sheriff Leon Lott of Richland County
3 and it was answered by Walter Carey H. Parham, which is
4 general counsel for the University of South Carolina.

5 So it was filed on 1/7/22. And when we received
6 it -- we didn't receive it till February 10th of 2022.
7 February --

8 THE COURT: When did you mail -- when did you file
9 your motion to dismiss in lieu of an answer?

10 MS. HUTCHENS: We filed the motion on February
11 7th, Your Honor, electronically. And because Mr. Hills is
12 pro se, we then put it in the mail that same day. He may
13 not have received it until the 10th, but we filed it on the
14 7th.

15 THE COURT: And we go by the date she filed it,
16 sir. And so it sounds like it was filed within the time
17 period.

18 MR. HILLS: Well, the thing about it is, she
19 electronically filed it and she electronically filed what
20 you said was a dismissal. But according to the summons, as
21 the summons reads, that you -- that you have to send me a
22 copy of the answer to the complaint. And the complaint has
23 to be sent to me within 30 days or judgment by default would
24 be rendered against you for the relief demanded in the
25 complaint. And this is what I read the summons and that's

1 what the summons, that's the law.

2 Now, that's -- she didn't do that, she did it
3 electronically. There's no reason for me to look up
4 electronically. I'm not a person that look on a computer.
5 You have to send to me by the paperwork that I sent to her.
6 I sent it to her and it was sent to her by paperwork and the
7 summons says she has to send it back to me by paperwork in
8 time, in 30 days, in a 30-day period, and she didn't, Your
9 Honor.

10 THE COURT: Ma'am.

11 MS. HUTCHENS: Your Honor, we filed our motion
12 within the time frame. We then mailed it to him. If the
13 fact that he received it -- I mean, we complied with the
14 rules and filed it within the 30 days.

15 MR. HILLS: I have a witness to that fact that
16 shows that --

17 MS. HUTCHENS: I understand that he received it
18 later, but it was filed.

19 THE COURT: ~~If I were you -- sir, she filed it~~
20 ~~within the 30 days. And the rules require that it be filed~~
21 ~~within the 30 days, and she's filed it within the 30 days.~~
22 ~~And I think you get -- I'll have to look at the mailing~~
23 ~~requirements, but it was placed in the mail to you, which is~~
24 ~~why you get it on the 10th. I'm assuming she placed it in~~
25 ~~the mail.~~

THE SUMMONS IS THE RULE
OF CIVIL PROCEDURE
B9

1 MR. HILLS: But where is the summons? The
2 summons, in fact, the rules and regulations. I signed it.
3 I signed the summons and it was sent out to them. That's
4 not -- that's the rules and regulations that they honor the
5 summons?

6 THE COURT: We go by the Civil -- Rules of Civil
7 Procedure, sir. And so you -- she filed and we go by the
8 Clerk's Office so we won't have to dispute when the mail was
9 sent or the mail was slow or if the mail was lost, but her
10 answer had to be filed within the 30 days and she filed the
11 answer in the 30 days and then she sent you a copy of the
12 answer showing that it was filed within 30 days, all right?

13 MR. HILLS: She filed a dismissal motion.

14 THE COURT: Well, her motion for dismissal in lieu
15 of an answer, sir.

16 MR. HILLS: Well.

17 THE COURT: She's not -- based on what I can see
18 and tell they're not in default. And so, I mean, because
19 the mail -- we can't go necessarily by when the -- when you
20 received it in the mail. It's when she filed and it's
21 stamped with the Court. And it doesn't seem as if anyone is
22 disputing that she filed it on February the 7th.

23 MR. HILLS: Yeah, she filed it electronically on
24 February the 7th.

25 THE COURT: Well, that's how we file stuff, sir.

1 We file things electronically, that is our method of filing.

2 And so --

3 MR. HILLS: But the only problem I have with
4 that -- and the only problem I have with that is filing a
5 dismissal motion underneath a default motion which I felt
6 that a default motion should be absolute, because a
7 default -- I'm in business, I've been in business. If my
8 bid is late, they throw it out, it's in default. Anything
9 like that, if I don't do my paperwork right, it's in
10 default. And that's -- the only thing that know that if
11 you're in default, you're in default because you didn't do
12 your paperwork right.

13 THE COURT: Right.

14 MR. HILLS: And this, they --

15 THE COURT: I'm not -- I'm not going to find that
16 she's in default because she filed her answer within the 30
17 days as per the Rules of Civil Procedure. So they
18 electronically filed them within the 30 days. So I'm going
19 to deny the motion for entry of default.

20 And so then she's filed a motion to dismiss.
21 You've asked for additional time, because you said you've
22 just received the memorandum of law, although she filed
23 it -- she filed the motion in February, but you did not get
24 the memo until last week or early this week?

25 MR. HILLS: I just got the information yesterday

1 from my P.O. Box.

2 THE COURT: Okay.

3 MS. HUTCHENS: And I hadn't had anything. Like I
4 said, Clerk of Court sent me the information.

5 THE COURT: I'll continue the motion to the next
6 term so you'll have an opportunity to respond to her motion
7 to dismiss.

8 MR. HILLS: Well, I'm going to have to do some
9 research.

10 THE COURT: Yes, sir.

11 MR. HILLS: I'm going to have to do some research
12 here, because it's -- I really went up on this summons.

13 THE COURT: Okay.

14 MR. HILLS: Because I put my paperwork, the
15 paperwork says what it says, I've been reading. My momma
16 was an english teacher.

17 THE COURT: Okay.

18 MR. HILLS: And this is what the summons say.

19 THE COURT: We operate under the Rules of Civil
20 Procedure, so you can take a look at the Rules of Civil
21 Procedure. We'll have, Ms. Bora, I think if you can put
22 this -- the motion to dismiss on the next docket that would
23 be great. All right?

24 MR. HILLS: Okay.

25 THE COURT: Thank you.

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1 MS. HUTCHENS: Thank you, Your Honor.

2 MR. HILLS: Thank you very much.

3 THE COURT: Uh-huh, take care.

4 END OF REQUESTED PROCEEDINGS

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STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND) FIFTH JUDICIAL CIRCUIT

Edward Tyrone Hills,) Civil Action No. 2021-CP-40-06223
))

Plaintiff,)
))

vs.)

**ORDER GRANTING DEFENDANT'S
MOTION TO DISMISS**

Dean, University of South Carolina,)
))

Defendant.)
))

This matter came before the Court on October 18, 2022, on the defendant's Motion to Dismiss pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure. This Court finds that the plaintiff has failed to state a cause of action against the defendant and, therefore, dismisses the plaintiff's Complaint.

PLAINTIFF'S ALLEGATIONS

According to the plaintiff's Complaint, the defendant made an unspecified threat to slander the plaintiff's name. The alleged threat occurred during the plaintiff's renovation of flooring at USC Salkehatchie between 2013 and 2014. The Complaint contains no further allegations as to the alleged conduct of the defendant, and the plaintiff denies that the defendant acted under color of state or local law.

Plaintiff filed the present Complaint on December 23, 2021, asserting a claim pursuant to 42 U.S.C. §1983 for defamation of character. The plaintiff's Complaint fails to state a claim for relief either pursuant to 42 U.S.C. §1983 or for defamation of character.

I. Plaintiff's Claim Pursuant to 42 U.S.C. §1983

The plaintiff has failed to allege facts sufficient to state a claim pursuant to 42 U.S.C. §1983 because the plaintiff has expressly denied that the defendant acted under color of state or local law. *See Charleston Joint Venture v. McPherson*, 308 S.C. 145, 152, 417 S.E.2d 544, 549 (1992) (“Section 42 U.S.C. § 1983 imposes liability upon any person who, under color of state law, subjects any citizen to the deprivation of any rights, privileges or immunities secured by the constitution.”).

Further, the plaintiff has identified the sole basis for his alleged §1983 claim as defamation of character. However, defamation of character is not a sufficient basis to maintain a §1983 claim. *See Paul v. Davis*, 424 U.S. 693, 711-12 (1976) (interest in reputation alone does not implicate a liberty or property interest sufficient to invoke due process protection under §1983). Therefore, the defendant's motion to dismiss the plaintiff's claim brought pursuant to 42 U.S.C. §1983 is granted.

II. Plaintiff's Cause of Action for Defamation of Character

To state a claim for defamation of character, a plaintiff must establish: “(1) a false and defamatory statement was made; (2) the unprivileged statement was published to a third party; (3) the publisher was at fault; and (4) either the statement was actionable regardless of harm or the publication of the statement caused special harm.” *Garrard v. Charleston Cty. Sch. Dist.*, 429 S.C. 170, 190, 838 S.E.2d 698, 709 (Ct. App. 2019).

The plaintiff has alleged that the defendant made an unspecified threat to slander the plaintiff. Nevertheless, the plaintiff has not alleged any other facts in support of any of the four (4) elements of defamation cited above. Consequently, this Court finds that the plaintiff's

Complaint fails to allege facts sufficient to state a claim for defamation. Therefore, the defendant's motion to dismiss the plaintiff's cause of action for defamation of character is granted.

III. Statute of Limitations

The applicable statute of limitations for claims for defamation or slander is two years. *See* S.C. Code Ann. § 15-3-550(1). "[T]he statute of limitations for § 1983 claims arising in South Carolina is three years[.]" *Brannon v. Blanton*, No. CV 9:15-2434-CMC, 2016 WL 4232886, at *2 (D.S.C. Aug. 11, 2016).

The alleged conduct at issue occurred between 2013 and 2014. Plaintiff filed the present Complaint on December 23, 2021. Therefore, this Court finds that the plaintiff failed to file his Complaint within the applicable statute of limitation as to both his claim for defamation and his claim pursuant to 42 U.S.C. §1983.

For the reasons set forth herein, the Complaint in the above-entitled action is dismissed.

AND IT IS SO ORDERED.

The Honorable Donald B. Hocker
Eighth Judicial Circuit

Laurens, South Carolina

October __, 2022

CERTIFICATE OF COUNSEL

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

DeAndrea Gist Benjamin, Circuit Court Judge

CASE NO. 2022-001512

Edward Tyrone Hills, Appellant,

v

Dean, University of South Carolina, Respondent

According to SCACR 210(g), I, Edward Tyrone Hills, certify that the Record of Appeal does not contain any matter that is irrelevant to the appeal.

February 24, 2023

s/Edward Tyrone Hills

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I, Edward Tyrone Hills, certify that the Record of Appeal does not contain any matter that is irrelevant to the appeal.

February 24, 2023

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