

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF HORRY

Case No. 2021CP2605745

Joseph A. Stagar,

Plaintiff

vs.

Deborah Cole,

Defendant.

ORDER ON DEFENDANT'S MOTION TO DISMISS

RECEIVED

MAY 22 2023

SC Court of Appeals

This matter came before the Court on April 24, 2023, for a hearing on Defendant's Motion to Dismiss. Plaintiff represented himself at the hearing, and Luther O. McCutchen, III, Esq., was present at the hearing on behalf of the Defendant. This action arises out of Plaintiff's claims that the Defendant falsely accused him of being a pedophile in a public business establishment. A Summons and Complaint was originally filed August 26, 2021. Defendant filed a Motion to Dismiss on October 21, 2021 and subsequently amended that motion on November 19, 2021. Judge William Seals heard that Motion and issued an Order on September 2, 2022. That Order granted Defendant's Motion but allowed "the Plaintiff 30 days from the date of this Order to promptly amend his summons and complaint to state a proper cause of action." An amended Complaint was filed September 21, 2022, and served on the Defendant on September 28, 2022. This Motion was subsequently filed on October 24, 2022.

The Defendant moves to dismiss the action or strike the complaint on three grounds: (1) failure to amend and serve the Summons along with the Complaint;<sup>1</sup> (2) failure of subject matter

<sup>1</sup> This deficiency actually creates three separate grounds for dismissal in and of itself, according to Defendant's Motion.

jurisdiction since the allegations in the complaint include references to Federal laws and Title 16 of the South Carolina Code; and (3) for failure to state a claim under SCRCP 12(b)(6).

After listening to the arguments of the parties and reviewing the relevant caselaw, this Court hereby GRANTS Defendant's Motion. First, the record shows that Plaintiff did not amend or serve the Summons along with the Complaint as he was ordered to do by Judge Seals. Therefore, dismissal is proper under SCRCP Rules 4(a), 4(d), 12(b)(2), and 12(b)(4). Secondly, it appears from the Amended Complaint that Plaintiff's causes of action arise out of criminal law or federal laws. This Court does not have subject matter jurisdiction over either. Lastly, the Amended Complaint fails to state facts sufficient to constitute a cause of action. The Amended Complaint's allegations fail to state, with specificity, which statements Defendant made about Plaintiff that would support a cause of action for slander. The only allegation regarding Defendant's statements reads "The Defendant making false allegation gave her feeling of psychological satisfaction the center of attention." Nowhere in the Complaint does the Plaintiff specifically allege that the *Defendant* accused him of being a pedophile. Therefore, dismissal is proper under SCRCP Rule 12(b)(6).

Based on the foregoing, dismissal is proper, and Defendant's Motion to Dismiss is GRANTED.

IT IS SO ORDERED.

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Debra R. McCaslin  
Circuit Court Judge

Lexington, SC  
April \_\_, 2023

**Court Reporter:**

**E-Filing Note:** The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCF.

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FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2021CP2605745

Joseph A Stagar  
PLAINTIFF(S)

Deborah Cole  
DEFENDANT(S)

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
- STAYED DUE TO BANKRUPTCY**
- 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:

[Empty box for order details]

ORDER INFORMATION

This order  ends  does not end the case.  See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 04/27/2023 .

Joseph A Stagar for Joseph A Stagar  
Joseph A Stagar for Joseph A Stagar

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NAMES OF TRADITIONAL FILERS SERVED BY MAIL



**Horry Common Pleas**

**Case Caption:** Joseph A Stagar VS Deborah Cole  
**Case Number:** 2021CP2605745  
**Type:** Order/Form 4

**So Ordered**

**Debra R. McCaslin**

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