

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON) NINTH JUDICIAL CIRCUIT

Herbert Alonzo Robinson #298364,) C/A No. 12-CP-10-7056

Plaintiff(s),)

Versus)

ORDER GRANTING JUDGMENT TO CHARLESTON POLICE DEPARTMENT

Charleston Police Department (CPD), WCIV-TV5 (Chanel Five News), WCIV-TV-4 (Chanel Four News), and WCBD-TV-2 (Chanel Two News)

Defendants.)

FILED
2013 APR 25 AM 9:30
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

This matter came before the Court on April 18, 2013, for a hearing on the Defendant Charleston Police Department's (CPD) Motion to Dismiss or in the alternative Motion for Summary Judgment. For the following reasons, the Motion is **GRANTED**, and Judgment is to be entered on behalf of the Charleston Police Department.

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Plaintiff brought this action through the filing of a Summons and Complaint on October 30, 2012. Within the Complaint, Plaintiff alleges defamation and slander as to the Defendant CPD for "possibly" providing the co-defendant broadcasters slanderous and defamatory information concerning a burglary on October 14, 2010. The Defendant subsequently plead guilty. Notably, Plaintiff submitted an Affidavit in opposition to the Defendant's timely providing the alleged defamatory statements that were published on October 21, 2010. The publication noted that the victims of the burglary stated they "found evidence the intruder used the bathroom-leaving behind a washcloth covered in feces - and ate a can of chicken soup he found in the cupboard." Plaintiff also alleges that the arrest warrant-affidavit dated October 19, 2010 contains defamatory statements.

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JUN 18 2013
SC Court of Appeals

Plaintiff must bring this action against CDP in accordance with the provisions of the S.C. Tort Claim Act, §15-78-10 et. seq. Pursuant to S.C. Code Ann. §15-78-110, it is clear that the statute of limitations against a governmental entity such as the CDP is two (2) years.

Signed

Furthermore, the general statute of limitations for a defamation cause of action is two years, see S.C. Code § 15-3-550, and our courts have "not adopted the discovery rule in libel and slander cases." Jones v. City of Folly Beach, 326 S.C. 360, 369, 483 S.E.2d 770, 775 (Ct. App. 1997). As the Plaintiff failed to commence this action within two (2) years of the allegedly defamatory statements, published October 19 and 21, 2010, this action is statutorily barred. The Complaint was filed October 30, 2012 or more than two (2) years after the publications included within the Plaintiff's memorandum in opposition to this motion.

Alternatively, Plaintiff fails to state a cause of action as to this governmental entity pursuant to the exceptions to waiver of immunity contained within S.C. Code Ann. §15-78-60 subsections (1), (2), (3), (5) and (20) of the Tort Claims Act. Pursuant to §15-78-60(3), a governmental entity is not liable for the execution, enforcement or lawful implementation of any process. An affidavit supporting an arrest warrant falls within this exception to the waiver of immunity. This action would additionally be covered as a discretionary act pursuant to the exceptions of subsection §15-78-60(5).

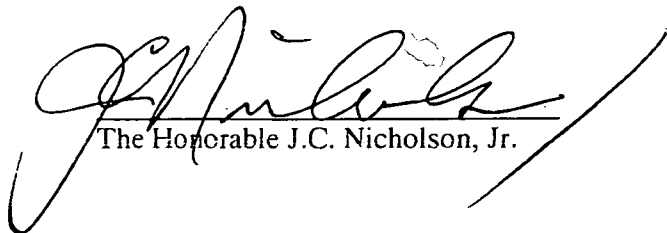
Further §15-78-60(20) prohibits Plaintiff from basing his claims upon acts of a person other than an employee including but not limited to the criminal actions of third persons. Plaintiff's Affidavit submitted in opposition to CPD's motion to dismiss undoubtedly depict that the alleged defamatory statements published by the broadcast media were not uttered by CPD but rather through interviews of the victims. From its plain reading, it is evident that the victims expressed the Plaintiff left fecal contaminated materials behind following the burglary. The Plaintiff previously pled guilty to the burglary. His alleged damages, including ridicule within the prison, taken even in their best light are obviously due to the victims' statements not any action of CPD. The S.C. Tort Claims Act simply does not recognize such outlandish claims against a governmental entity charged with enforcing its laws and protecting the public from the admitted criminal activities of the Plaintiff.

Finally, as to the probable cause affidavit of Investigator Matthew Stanley, the United States Supreme Court has made clear that one enjoys absolute, not qualified immunity, when acting as an advocate and when performing "activities ... intimately associated with the judicial phase of the criminal process." See Imbler v. Pachtman, 424 U.S. 409, 424-431 (1976) (providing an extensive policy discussion on the need for prosecutors to have absolute rather than qualified immunity); see also Williams v. Condon, 347 S.C. 227, 241, 553 S.E.2d 496, 504 (Ct. App. 2001) (Judge Anderson providing a summary of the Supreme Court's arguments in Imbler). S.C. Code Ann. §15-78-60 of Tort Claims Act further provides that a governmental entity is not liable for a loss resulting from (1) legislative, judicial, or quasi-judicial action or inaction; and (2) administrative action or inaction of a legislative, judicial, or quasi-judicial nature. Therefore, CPD is afforded absolute immunity as to the contents within the probable cause affidavit.

S.C. Code Ann. §15-78-20(f) mandates that the provisions of the Tort Claims act, "must be liberally construed in favor of limiting liability of the State." For the foregoing reasons, Plaintiff's Complaint as to Charleston Police Department is hereby **DISMISSED and SUMMARY JUDGMENT GRANTED** as to the Charleston Police Department.

IT IS SO ORDERED!

4/23, 2013
Charleston, South Carolina


The Honorable J.C. Nicholson, Jr.

To, SC Court of Appeals

June 11, 2013

c/o Ms. Jenny Abbott Kitchings, POB 11629, Col 9, SC 29211

**Appellate case # 2013-000948

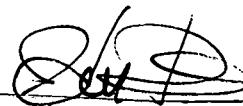
Robinson v. Chas. Police Dept. et al
Case # 12-CP-10-7056

Dear Ms. Kitchings:

How are you man. Please find the Actual
*[Signed] Order of Dismissal in the Above
Referenced matter I recieved from Mr.
G. Wade Cooper in my case against the
Charleston Police Dept. (Today).

Man, I sent you an unsigned order,
so please attach the signed one by the
Judge to my Appeal. Your disposition
ASAP. Thank you man,

P.S. The order was
Filed: April 25, 2013


Herbert Alanzo Robinson
298364 - Allendale C.I.
P.O. Box 1151, Fairfax, SC
29827

Note. Ms. Kitchings I've Already sent
you my Motion to Have my Prison
Account Debited to pay the
Filing Fee for this Appeal man

Appellant's Prose

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