

STATE OF SOUTH CAROLINA)
 COUNTY OF MCCORMICK)
)
 Bryantavious K. Murray,)
)
 Plaintiff,)
)
 vs.)
)
 Lt. Geoffrey Rice, Lt. Ronald Cook, Lt.)
 James Thompkins, Sgt. Jeremy McCary,)
 Major Frank Mursier, Joseph Stevens,)
 Leroy Cartledge, Vera Courson, and)
 South Carolina Department of)
 Corrections,)
)
 Defendants.)

IN THE COURT OF COMMON PLEAS
ELEVENTH JUDICIAL CIRCUIT

C/A NO. 2018-CP-35-00074

ORDER

RECEIVED
Aug 22 2023
SC Court of Appeals

This matter is before me on Defendant South Carolina Department of Corrections' (hereinafter SCDC) Motion to Dismiss. A hearing was held on this matter on July 17, 2023 at which time Steven M. Pruitt appeared on behalf of Defendant and Plaintiff appeared pro se. For the reasons discussed below, the Court grants Defendant's Motion and dismisses Plaintiff's action.

Plaintiff filed this action alleging employees or agents of Defendant used excessive force against him on April 8, 2016. Plaintiff filed this action on August 28, 2018, but Defendants were not served. On February 1, 2019, the Court mailed Plaintiff a Dormant File Notice in which Plaintiff was instructed to file "an appropriate motion or Affidavit of Service" within 10 days or his action would be dismissed. There is no indication in the Court record that Plaintiff filed a motion or affidavit of service. On February 25, 2019, the Court issued an Order dismissing Plaintiff's action for failing to serve Defendants. Plaintiff then filed a letter and additional materials, including the Complaint, in April 2023. One copy of the Complaint was delivered to the SCDC General Counsel on May 25, 2023 by the Richland County Sheriff's Department.

Defendant moved to dismiss first on the basis that Plaintiff's action was previously dismissed. The Court agrees. As stated above, an Order was issued on February 25, 2019 dismissing Plaintiff's action. As Plaintiff's action has been dismissed by prior Order of the Court. Plaintiff cannot continue to pursue this action and Defendant's Motion to Dismiss is granted.

Defendant also moved to dismiss Plaintiff's action because it is barred by the two-year statute of limitations found in the South Carolina Tort Claims Act. South Carolina Code Ann. §15-78-110 (Supp. 2021). Section 15-78-110 of the South Carolina Code states "[e]xcept as provided for in Section 15-3-40, any action brought pursuant to this chapter is forever barred unless an action is commenced within two years after the date the loss was or should have been discovered" South Carolina Code Ann. §15-78-110 (Supp. 2021). Plaintiff in his Complaint claims that the incident which is the subject of his claim occurred on April 8, 2016. According to Court records, Plaintiff initially filed this action on August 28, 2018, more than four months beyond the two-year statute of limitations. Therefore, Plaintiff's action is barred by the two-year statute of limitations found in the South Carolina Tort Claims Act and is dismissed.

Only Defendant SCDC has appeared in this action and this Motion was filed only on behalf of Defendant SCDC. The Court would note that there is no evidence in the record that the remaining Defendants have been served. The Court finds that the grounds for dismissal discussed above would apply to all Defendants and based on the above, Defendant's Motion to Dismiss is granted and Plaintiff's action is dismissed as to all Defendants.

IT IS SO ORDERED.

The Honorable R. Lawton McIntosh

_____, 2023
McCormick, South Carolina

K

INMATE TRUST FUND ACCOUNT REPORT for SOUTH CAROLINA COURT FILING FEES

Northwell
C.I

FEB 16 2018

SCDC-FINANCIAL ACCOUNTING

Cyp31

INSTRUCTIONS TO INMATE: Complete top portion through **FEB 20** in **Prison** When returned from Accounting, you must mail this form with any payment to the Court.

KanCI
MAILROOM

By signing my name below, I am asking the Financial Accounting Office of the South Carolina Department of Corrections to complete this report. In accordance with SC Code of Laws §24-27-100 and 150, I authorize payment of the full filing fee. If I have insufficient funds in my account at this time to pay the court's full filing fee, I authorize SCDC to deduct the initial and subsequent payments until payment is completed.

INMATE NAME (print): Bryan Jarvis H. Murray Bryan Jarvis Murray

SCDC# 356248 INMATE SIGNATURE: Bryan Jarvis Murray

I plan to file this action in the SC County of McCormick South (Inst. #)

The section below is for SCDC - Financial Accounting Branch's use ONLY.

- (1) Total deposits to inmate's account for preceding six months' period* \$ 0
- (2) Twenty percent (20%) of line 1 \$ 0
- (3) Account balance - current date \$ 0
- (4) PAYMENT AMOUNT **
(lesser of line 2 or line 3)
Enclosed check # _____ \$ 0

****NOTE to COURT:** If payment is for partial fee, Court must notify SCDC once case is accepted and filed. Send notice with case # and balance owed to address below. SCDC will NOT process any additional payments until notification is received from Court.

South Carolina Department of Corrections
Financial Accounting - Room 234
PO Box 21787
Columbia, SC 29221-1787

RECEIVED

FEB 27 2018

*Admission date is noted here if inmate incarcerated less than six months _____

KanCI
MAILROOM

[Signature]

2/27/18

Prepared by Financial Accounting Branch - SCDC

Date 2/27/18 c:\file\struc\prep\177

Supreme Court of the State of South Carolina
Appellate Division

Brian Lewis K. Murray
Plaintiff

- VS -

South Carolina Department of Corrections
Full Capacity

Court:

Behlund County

C/A NO. 2018-CP35-0674

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Aug 22 2023

SC Court of Appeals

Pursuant to Rule 240, U.S.C. of Appeals Plaintiff moves for an order appointing Counsel to represent him in this case. In support of this motion Plaintiff states:

- 1) Plaintiff is unable to afford Counsel he has requested leave to proceed in forma pauperis.
- 2) Plaintiff states a trial in this case will likely involve conflicting testimony and Counsel would better enable Plaintiff to represent evidence and examine witnesses.

Wherefore Plaintiff Request that Counsel by Court Appointment a Member of the S.C. BAR OR S.C. Appeal. Courts

Date: 7-27-2023

Signature: Brian Lewis K. Murray

Address: 2156 Cresthill Drive
Columbia S.C. 29223

STATE OF SOUTH CAROLINA

COUNTY OF MCCORMICK

IN THE COURT OF COMMON PLEAS

Bryantavious Murray

Plaintiff

RETURN OF THE CIVIL APPEAL

Vs.

SCDC, et al, full capacity

Defendant(s)

This matter is on appeal from the Magistrate Court of MCCORMICK County South Carolina,

the Honorable Mcintosh Presiding Judge.

The Plaintiff filed a (an) Complaint and Summons on 2-28-2018,

against the Defendant(s) alleging the following: Use of excessive force by (Co.)
Officers, Warden, and medical malpractice

served the Defendant on [REDACTED] 5-25-2023

by Richland County. The Defendant answered on June 12 2023

stating: June 12 2023 was their response stating that the motion
and action has been received and should be time barred, and dismissed.

The Defendant filed a counterclaim on Rule 41(C). The matter was heard 7/17/2023

on 7-17-2012. The ruling was issued in favor of Defendants lie time barrier

on the claim the Court awarded the following: non money damages,

time bar, dismissed without prejudice, and to allow to
amend, and of Appeal

The Court ruled for the defendants on the counterclaim, the Court awarded the following
Dismissal Complaint

The proceedings were (Check Appropriate Box)

- Recorded electronically.
- Recorded by a court reporter.
- Recorded in writing by the judge.

The Notice of Appeal was served upon the Court by 7 on 22/2023.

The jury list was prepared pursuant to S.C. Code Ann. (Check Appropriate Box)(Answer if Applicable)

- § 22-2-80. Selection of jury list for a single trial.
- § 22-2-90. Selection of jury list for scheduled terms of jury trials.

and the Plaintiff and Defendant(s) were given an opportunity to exercise challenges on

Rule 41(c)

The Plaintiff called the following witnesses, and a summary of their testimony is attached.

- | | |
|---------------|----------------|
| 1. <u>Now</u> | 2. _____ |
| 3. _____ | 4. _____ |
| 5. _____ | 6. _____ |
| 7. _____ | 8. _____ |
| 9. _____ | 10. <u>Now</u> |

The Defendant called the following witnesses and a summary of their testimony is attached.

- | | |
|---------------|-------------------------|
| 1. <u>Now</u> | 2. <u>Steven Pruitt</u> |
| 3. _____ | 4. _____ |
| 5. _____ | 6. _____ |
| 7. _____ | 8. _____ |
| 9. _____ | 10. <u>Now</u> |

The Plaintiff made the following motions. A summary of the Plaintiff's and Defendant's position on each motion and the Court's ruling is attached.

1. NOW
2. See motion and Affidavit to Amend (P)
3. ~~See motion and Affidavit to Amend (P)~~
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
10. NOW

The Defendant made the following motions. A summary of the Plaintiff's and Defendant's position on each motion and the Court's ruling is attached.

1. See motion to strike back dismissal (P)
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____

The Plaintiff offered the following items into evidence.

1. Affidavits
2. ~~INCIDENT REPORTS~~
3. ~~incident reports malpractice incident reports~~
4. ~~CAMERA STATEMENTS~~
5. ~~malpractice incident reports medical incident reports~~
6. ~~_____~~
7. ~~CAMERA STATEMENTS~~
8. ~~_____~~
9. ~~medical incident reports~~
10. _____

The Defendant raised the following objections to the items that the Plaintiff sought to introduce into evidence:

1. time barred
2. DISMISSED / NOW prejudice
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____

A summary of the Defendant's and Plaintiff's position and the Court's ruling on the objection is attached.

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[illegible]
[illegible]

[illegible]

LEGAL MAIL

State of South Carolina
County of McCormick

Bryan James V. Murray
Plaintiff.

vs.

Lt. Brentley Dice, Lt. Ronald Cook,
Lt. James Thomkins, Sgt. Jerome
McLure, Major Frank Mueser,
Olson Stevens, Leroy Cartledge,
Vera Louison, and South Carolina
Department of Corrections, et al
Defendants.

FILED
GIVEN
2023 AUG -1 P 4:02
CLERK OF COURT
McCORMICK COUNTY, SC

In the Court of Common Pleas
Eleventh Judicial Circuit

CLA No. 2018-CP-35-00074

Motion to Strike back
against defendants motion
to dismiss.

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Aug 22 2023

SC Court of Appeals

To: Defendants listed above, and Attorneys

Plaintiff moves for Court to voluntarily dismiss defendants motion to dismiss
complaint on grounds of:

- 1.) That Plaintiff filed complaint in Federal Court as Civil Court on
1-17-17 within the 2 years statute of limitations from 4-8-2016,
and filed state torts claim Act Civil dated: 3-8-2018 see back of
complaint on original copy 1st suit filed with Assault to battery, Plaintiff
filed, then voluntarily dismissed the complaint with the court within
10 days business before the defendants could get served to refile
within (6) years. See rule 41(a) (1) SC TORTS CLAIMS CIVIL
Procedure. Where Plaintiff wish the case to not be dismissed.
- 2.) At the time Plaintiff request only by Court order on terms that the
Court consider proper grounds for the Plaintiffs complaint. If a
defendant has pleaded a counterclaim before being ~~joined~~
with the Plaintiffs motion to dismiss which should be considered

Prejudice in for the defendants.. Defendants did not state
state a Counterclaim before Answer date: filed 3-8-2018
Wherefore Plaintiff demand ~~and~~ trial... on date
7-17-2023 @ 10:00 @T Richland County Court House...

Signed: Briantharius Mungo
Date 6.21.2023

State of South Carolina
McCormick County
Brittany K. Murray
Plaintiff

- vs -

SCDC et. al
Full Capacity

Defendants

FILED
2023 AUG -1 P 6:02
CLERK OF COURT
MCCORMICK COUNTY

The Court of Common Pleas
11th Circuit

Document No: 2018-CP-35-00074

Motion and Affidavit to Amend
Court order from Judgment

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Aug 22 2023

SC Court of Appeals

Plaintiff now the Plaintiff moving in accordance to Rule 59(c) to move to amend the Judges decision on grounds that Plaintiff was served with summons on 3-16-2018 by Court BY MS Butler judges the McCormick County Clerk of Court. See Attachment exhibited of the envelope date that the summons and Complaint came in on the Courts records, and Plaintiff respectfully request the Honorable Judge McIntosh to go back to amend or replace Plaintiff on the Jury Trial Roster. Plaintiff would state that that Judge McIntosh didn't receive the Complaint and summons from MS Butler judges until 8-28-2018 which delayed and harmed the Plaintiff's time, money and case. which would show lack of Court Jurisdiction

2.) Plaintiff would go on to state that he contacted the first Plaintiff on 2-28-2018 which would not bar to his claims, since the Defendants did not state a counter claim until rule 41 (a). on Plaintiff's claims on 3-8-2018 Plaintiff provided the defendants, and Plaintiff with a voluntarily dismissed Affidavit to dismiss the Plaintiff's complaint which could have easily gotten lost in the mail to send to the defendants. which he sued for an excessive amount of punitive damages which could have not secured and harmed Plaintiff's claims to be heard.

Plaintiff made so as to state that the (to be) awarded (to be) without the
prejudice for the dismissal of the complaint and to the (to be) to state
on grounds that he sustained more than a few (to be) charges in
Permanet injuries from the defendants (to be) caused more than (to be) than
a 50% chance that the defendants are intentionally and (to be) known
of (to be) Plaintiff (to be) and (to be) to (to be) (to be) (to be)
from judgment should be granted. By Judge Minosh.

Signed Brunhildis Munn

Dated: April-19-2023

Address: 2156 Crestline Ave Columbus, OH 43223

New Case

STATE OF SOUTH CAROLINA

CASE NO. 2018CP3574

COUNTY OF MCCORMICK

IN THE COURT OF COMMON PLEAS

STATE OF SOUTH CAROLINA

Bryantavious Murray
PLAINTIFF(S)

SCDC
DEPENDANT(S)

CHECK ALL THAT APPLY:

RE: INMATE FILING OF CIVIL SUITS:

() THE PLAINTIFF, AN INMATE WITH THE SOUTH CAROLINA DEPARTMENT OF CORRECTIONS, (HAS/HAS NOT) COMPLIED WITH SECTION 24-27-100.

() THE CLERK OF COURT IS HEREBY ORDERED (TO FILE/NOT TO FILE) THE WITHIN ACTION.

THE SCDC SHALL DEDUCT THE FILING FEE FROM THE PRISONER'S TRUST ACCOUNT PURSUANT TO SECTION 24-27-100 AND SHALL FORWARD THE FUNDS TO THE CLERK OF COURT FOR MCCORMICK COUNTY, SOUTH CAROLINA. *This includes service fees.*

Dated at McCormick, SC, this 28th date of August, 2018.

[Signature]

Chief Administrative Judge

Attorney(s) for Plaintiff

Attorney(s) for Defendant

Emailed +
mailed to
Judge Utilation
3/10/18

[Signature]
Clerk of Court

[Signature]
Deputy

\$8.00

check