

The state of South Carolina  
IN The Court of Appeals  
IN The Supreme Court

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NOV 22 2023

SC Court of Appeals

Appeal From Dorchester County  
Court of Common Pleas

Maitte Murphy, Circuit Court Judge

Case No. 2023-000920

South Carolina Department of Corrections, Respondent,

v.

Benjamin Heyward, Appellant.

Appendix To The Brief

Benjamin Heyward  
Allendale Corr Inst  
1057 Revolutionary Trail  
Fairfax, SC 29827

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STATE OF SOUTH CAROLINA	)	
	)	IN COMMON PLEAS COURT
COUNTY OF DORCHESTER	)	2022-CP-18-00442
Benjamin Heyward,	)	
	)	
PLAINTIFF,	)	TRANSCRIPT OF RECORD
	)	
vs.	)	May 11, 2023
	)	
South Carolina Department	)	St. George, South Carolina
of Corrections,	)	
	)	
DEFENDANT.	)	
	)	
	)	
	)	
	)	

B E F O R E:

THE HONORABLE MAITE MURPHY, Judge

A P P E A R A N C E S:

BENJAMIN HEYWARD,  
Self-represented Litigant

ELLOREE GANES, Esquire  
Attorneys for Defendant

Recorded by:	DCRP
Transcribed by:	MISSY BROWN Court Reporter

I N D E X

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
Motion hearing	4			
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E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
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*No exhibits marked by court reporter during hearing.*

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

May 11, 2023

1  
2  
3 (WHEREUPON, Court was in session with all parties  
4 present when the following matters were had:)

5 THE CLERK: Judge, the next case is Benjamin  
6 Heyward versus Department of Corrections. Mr. Heyward is  
7 here, as well as Elloreë Gaines for the Defense.

8 THE COURT: Good morning.

9 MS. GANES: Good morning, Your Honor. I filed a  
10 motion to continue last week. Mr. Heyward's case has not  
11 been mediated. You heard some motions on it. I think he  
12 filed an amended complaint and then withdrew it, but we  
13 have a pending motion to dismiss and it's quite a  
14 dispositive issue. And if the motion to dismiss is not  
15 granted, then the parties, I would suggest, should take the  
16 time to mediate before burdening the Court and a jury with  
17 a pro se case.

18 THE COURT: How about we do this, we can go ahead  
19 and put your motion to dismiss on the next non-motion --  
20 non-jury roster.

21 MS. GANES: Yes, Your Honor.

22 THE COURT: Madam Clerk, when is that?

23 THE CLERK: That would be ---

24 MR. HEYWARD: Excuse me. Excuse me. Excuse me.

25 OFFICER: Hold up. Let the judge talk, young

1 man. What are you doing?

2 THE CLERK: That would be May 16th or 17th.

3 THE COURT: Okay. So Judge McFadden will be here  
4 to do the pretrial motions for May 16th or May 17th.

5 You'll get notice to be here for that. And depending on  
6 how that goes, then we can give you time to mediate. Why  
7 don't we say put you back on the trial roster by June?

8 MS. GANES: Okay. Your Honor, the Court's not  
9 inclined to hear -- the Court's not inclined to hear the  
10 motion to dismiss today?

11 THE COURT: I suppose we could. Did you file and  
12 was he given notice of it?

13 MS. GANES: Oh, yes. The motion to dismiss has  
14 been pending since February. And just because we have him  
15 transported today, you know, it does burden the Department  
16 to bring him from Allendale. And, you know, the issue is  
17 that his injury occurred in the course of his work as a  
18 prison worker, and the sole remedy is worker's comp.

19 That's our position. And that's ---

20 THE COURT: How long do you expect your motion to  
21 take?

22 MS. GANES: I just argued it, five minutes.

23 THE COURT: All right. Sure. We can do that.  
24 Why don't we do this, we can actually, if this is the last  
25 case we have we can do it in two seconds.

1 All right. So that's the last on the jury  
2 roster?

3 THE CLERK: This is the last one on the jury  
4 roster.

5 THE COURT: All right.

6 OFFICER: Judge?

7 THE COURT: Yes, sir?

8 OFFICER: He wanted to say something.

9 THE COURT: Yes, sir.

10 MR. HEYWARD: Yes, Your Honor. My motion -- my  
11 motion to amend wasn't granted for SCDC. The Defendant  
12 trying to dismiss my case because I didn't have SCDC as the  
13 proper defendant, and you granted my motion for that and my  
14 trial was set for today.

15 THE COURT: Right.

16 MR. HEYWARD: And you dismissed the two employees  
17 and then added SCDC as the proper defendant.

18 THE COURT: I've got to look at the entire file  
19 and look at the motions. Honestly, I don't recall off the  
20 top of my head. We have so many motions, sir. I don't  
21 recall exactly the status of your case. But we're going to  
22 look at it here in two seconds. We'll pull up your case  
23 file and look at the motions that have been heard, the ones  
24 that are properly pending before the Court, and we'll take  
25 care of it here in just a second.

1 MR. HEYWARD: Okay.

2 THE COURT: Well we can go ahead and do that.

3 Madam Clerk, can we pull up that case file?

4 Ms. Gaines, are you ready to argue that?

5 Gentlemen, do you mind giving Ms. Gaines a little  
6 room? She can come up here and argue her motion.

7 (Pause.)

8 THE COURT: All right. Mr. Heyward, it appears  
9 with the record in the clerk's file that the only motion  
10 pending right now is the motion to dismiss and the motion  
11 to continue. So those are the two matters that will be  
12 heard today, to continue the trial and a motion to dismiss  
13 that was continued.

14 MR. HEYWARD: This past Wednesday, the  
15 Defendant's attorney, Mr. Evans, came to me wanting to  
16 settle the court.

17 THE COURT: Pardon me?

18 MR. HEYWARD: Mr. Evans, the SCDC attorney, ---

19 THE COURT: Yes, sir.

20 MR. HEYWARD: --- he came to the prison, wanted  
21 to settle this matter out of court. And I refused, tell  
22 him I'd see him today at trial. He wanted to settle out of  
23 court, and I don't understand what's going on.

24 THE COURT: Well if a settlement was reached,  
25 that ---

1 MR. HEYWARD: No, there wasn't.

2 THE COURT: No settlement was reached?

3 MR. HEYWARD: No. I told him no. I didn't want  
4 to settle. I didn't want to settle.

5 THE COURT: Okay. Well then we'll go forward  
6 with the motions that are properly before the Court.

7 All right. Ms. Gaines, you may proceed.

8 MS. GANES: Thank you, Your Honor. And I'm happy  
9 to submit a supplemental brief if the Court needs it. But  
10 the pleadings seem very clear in that Mr. Heyward's  
11 allegation is that in April of 2020 he was working as a  
12 cafeteria worker and there was some communication about a  
13 pan and they didn't have a pan so he used a milk jug to put  
14 some hot water from a coffee maker in it. And then he put  
15 the hot water in the coffee maker -- put the hot water in  
16 the jug. He put the jug on the table. And then he leaned  
17 down to clean the bottom of the table and the jug fell  
18 somehow and burned him.

19 So it does not seem to be in dispute that this  
20 injury occurred in the course of his work as a cafeteria  
21 worker. And so Section 42-1480 is clear that any inmate of  
22 the Department of Corrections, in the performance of his  
23 work in connection with the maintenance of the institution  
24 or a vocational training program, et cetera, who is  
25 injured, their sole remedy is worker's comp.

1           And how that works is if they are injured in the  
2 course of their prison work, they have to report it and  
3 then when they get out, they can have that settlement if  
4 they're entitled to one, or their hearing on it. But  
5 that's the sole remedy. If it wasn't, our courts would be  
6 completely log-jammed with, you know, potential cases from  
7 inmates who are injured in their work maintaining the  
8 institutions.

9           So that's our position, that he has got to file  
10 his worker's comp case. I have verified -- and I do have  
11 an affidavit that I could supplement. I have verified that  
12 that paperwork was filed. He reported his injury. I think  
13 he's maxing out, you know, not terribly long from now. And  
14 then he goes back and he files his comp claim and if  
15 payment is due to him, he receives it after he is no longer  
16 an inmate.

17           THE COURT: Thank you, Ms. Gaines.

18           Mr. Heyward, do you have a response to that?

19           MR. HEYWARD: Your Honor, -- Your Honor, I came  
20 here today for a jury trial. I mean, this is new to me  
21 what she's saying. And this jug she's talking about,  
22 that's negligent. It should never been used. The reason  
23 why the food supervisor was using it because they was short  
24 of four by six pans. And the water in the dining room area  
25 supposed to be normal temperature, like the water any

1 bathroom you go to on the street. It was too hot. That's  
2 -- that's how I got burnt.

3 THE COURT: All right, sir. But you're not  
4 responding as far as -- you're representing yourself so  
5 you're held to the same standard as if you were an  
6 attorney. So you must follow the proper legal channels,  
7 the rules of evidence, and the statutory law. So do you  
8 have any response to the legal arguments she just made?

9 We're not trying your case today because there  
10 was a previous filed pending motion that needed to be  
11 resolved before your case goes to a jury trial. So we've  
12 got to jump through that hoop first before your case goes  
13 to a jury trial. So as far as the argument for the motion  
14 to dismiss that your case should have been properly brought  
15 through worker's comp, rather than through this lawsuit  
16 that you have filed, tell me what your response is to that.

17 MR. HEYWARD: Well I'm going to have to ask for a  
18 continuance because I didn't get no paperwork to respond  
19 and I need -- I need to study. I need to do some research  
20 and everything.

21 THE COURT: Ms. Gaines, was he served with ---

22 MR. HEYWARD: She didn't serve me nothing.

23 THE COURT: --- this motion?

24 MS. GANES: My motion was a basic motion. I am  
25 happy to file this in a supplemental brief with my

1 affidavit and let the Court, you know, take it under  
2 advisement, and respond after he's had an opportunity to  
3 respond. But I don't think there is any dispute that he  
4 was working as a cafeteria worker and he was injured in the  
5 course of that and he should have a worker's comp claim  
6 when he maxes out.

7 THE COURT: All right. So, Mr. Heyward,  
8 obviously want to be completely fair to you too and give  
9 you an opportunity to look at the motion, to research the  
10 issue and respond, so I'll keep the record open for Ms.  
11 Gaines to file the affidavit and supplemental brief, to  
12 serve you with it so you can look at it, and then if you  
13 want to file a written response to the Court, I'll give you  
14 time to do that.

15 Would 30 days be sufficient for you?

16 MR. HEYWARD: Yes.

17 THE COURT: Okay. So I'll give you 30 days to  
18 respond once you get the written brief and the affidavit.  
19 You can respond in writing and file it with the court.  
20 I'll take a look at both sides and then I'll issue a  
21 ruling. Okay?

22 MR. HEYWARD: Yes, ma'am.

23 THE COURT: All right, sir.

24 All right. Thank you, ma'am.

25 MS. GANES: Your Honor, I can get that brief

1 filed by the end of the week.

2 THE COURT: Thank you. And if you'd do a  
3 proposed order to that effect. Thanks.

4 \*\*\*END OF TRANSCRIPT OF RECORD\*\*\*

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CERTIFICATE OF REPORTER

1  
2 I, the undersigned Missy Brown, Official Court  
3 Reporter for the Fourteenth Judicial Circuit of the State  
4 of South Carolina, do hereby certify that to the best of my  
5 ability the foregoing is a true, accurate, and complete  
6 transcript of record of the proceedings had and evidence  
7 introduced in the hearing of the captioned case, relative  
8 to appeal, as recorded by DCRP and transcribed by me, in  
9 the Court of Common Pleas for Dorchester County, South  
10 Carolina, on the 15th day of August 2023.

11 I do further certify that I am neither of kin,  
12 counsel, nor interest to any party hereto.

13 October 13, 2023

14  
15  
16 Missy Brown

17 Court Reporter

18  
19  
20  
21  
22  
23  
24  
25

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF DORCHESTER	)	
Benjamin Heyward,	)	C/A No. 2022-CP-18-00442
	)	<i>Plaintiff,</i>
	)	
Versus	)	<b>DEFENDANT'S MEMORANDUM IN</b>
	)	<b>SUPPORT OF ITS MOTION TO DISMISS</b>
	)	<b>PLAINTIFF'S AMENDED COMPLAINT</b>
South Carolina Department of Corrections,	)	
	)	
	)	<i>Defendant.</i>

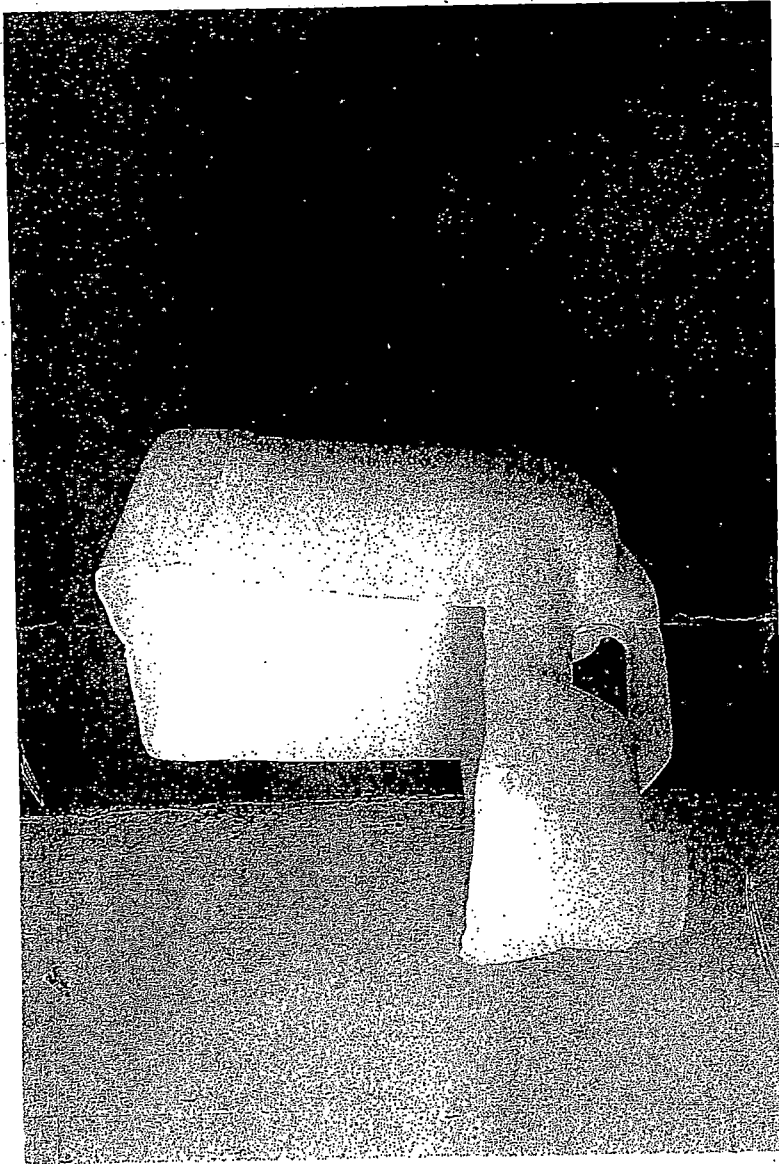
TO: BENJAMIN HEYWARD, PRO SE PLAINTIFF:

The Defendant, South Carolina Department of Corrections (hereinafter "Defendant"), by and through its undersigned attorneys, submits this memorandum in support of its Motion to Dismiss, seeking an Order dismissing the Plaintiff's Amended Complaint on the grounds that Plaintiff's Amended Complaint fails to state a claim for which relief may be granted against the Defendant. Defendant submits this memorandum to supplement the arguments made during the hearing held on the motion on April 10, 2023.

**I. FACTUAL BACKGROUND**

Plaintiff Benjamin Hayward, proceeding *Pro Se*, originally filed this action on March 10, 2022. The Plaintiff is currently incarcerated within the South Carolina Department of Corrections at Allendale Correctional Institution. Plaintiff's original Complaint was dismissed, but Plaintiff was granted leave to amend his Complaint to substitute the South Carolina Department of Corrections as the Defendant.

Plaintiff's Amended Complaint contains only three paragraphs of allegations, none of which assert the facts of his claims, nor any theories of recovery. Contained in Plaintiff's original Complaint are negligence/gross negligence causes of action against the Defendant for injuries sustained when he was burned by hot water while working in the McDougall Correctional Institution as an inmate cafeteria worker in April 2020.



CERTIFIED COPY  
 2022 MAR 10 PM 4: 58  
*[Signature]*  
 CLERK OF COURT  
 DORCHESTER COUNTY

EXHIBIT B



CERTIFIED COPY

STATE OF SOUTH CAROLINA 2023 MAY 11 AM 10:43 IN THE COURT OF COMMON PLEAS  
COUNTY OF DORCHESTER

Benjamin Heyward,

*Charles Heyward*  
CLERK OF COURT  
DORCHESTER COUNTY

Case No. 2022-CP-18-00442

Plaintiff, )

ORDER GRANTING DEFENDANT'S  
MOTION TO DISMISS

Versus )

South Carolina Department of Corrections, )

Defendant. )

This matter is before the Court on the Defendant South Carolina Department of Corrections' (hereinafter "Defendant") Motion to Dismiss. The Defendant brought its motion on the grounds Plaintiff's Amended Complaint fails to state a claim for which relief may be granted against the Defendant. Based on the record and the material facts as shown by the Defendant, the Court finds that the Defendant is immune from liability pursuant to the South Carolina Tort Claims Act and that the Plaintiff's action is governed by the South Carolina Worker's Compensation Act. Accordingly, the Court grants Defendant's Motion to Dismiss.

**APPLICABLE LAW**

Pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure, a motion to dismiss must be granted when the pleadings fail to state facts sufficient to constitute a cause of action as a matter of law. *Bergstrom v. Palmetto Health Alliance*, 596 S.E.2d 42, 45 (S.C. 2004). Furthermore, a court must grant a Rule 12(b)(6) motion to dismiss if the facts alleged and the inferences reasonably deducible from the pleadings would not entitle a plaintiff to relief under any theory of the case. *Brown v. Leverette*, 353 S.E.2d 697, 698 (S.C. 1987); *McCormick v. England*, 494 S.E.2d 431, 433 (S.C. Ct. App. 1997). Thus, the question to be considered is whether the pleadings articulate any valid claim for relief. *Toussaint v. Ham*, 357 S.E.2d 8, 9 (S.C. 1987); *Cowart v. Poore*, 523 S.E.2d 182, 184-85 (S.C. Ct. App. 1999).

EXHIBIT-E

ELECTRONICALLY FILED - 2023 May 11 10:31 AM - DORCHESTER - COMMON PLEAS - CASE#2022CP1800442

**DISCUSSION**

The Defendant South Carolina Department of Corrections is afforded the protections of the South Carolina Tort Claims act as an agency of the State of South Carolina. S.C. Code Ann. §15-78-30(a), (c), (d), and (h) (1986) (defining “agency,” “employee,” “governmental entity,” and “political subdivision” for purposes of the South Carolina Tort Claims Act) are applicable for any state law claims which may be contained in Plaintiff’s Complaint.

“The remedy provided by [the South Carolina Tort Claims Act] is the exclusive civil remedy available for any tort committed by a governmental entity, its employees, or its agents except as provided in §15-78-70(b).” S.C. Code Ann. §15-78-20(b) (1986).

Further, the South Carolina Tort Claims Act expressly states there is no liability for claims that are governed by the South Carolina Worker’s Compensation Act. S.C. Code §15-78-60 (14).

The Plaintiff’s Complaint seeks recovery for injuries he allegedly sustained while working in the cafeteria at McDougall Correctional Institution. As such, the Court finds that pursuant to S.C. Code §15-78-60 (14) the Defendant is immune from liability, and pursuant to S.C. Code § 41-1-480, the Plaintiff’s sole remedy is governed by the South Carolina Worker’s Compensation Act.

Based on the foregoing, the Defendants’ Motion to Dismiss is hereby GRANTED.

IT IS SO ORDERED.

\_\_\_\_\_, 2023  
St George, South Carolina

\_\_\_\_\_  
The Honorable Maite Murphy

state of South Carolina  
County of Dorchester  
Benjamin Heyward  
plaintiff  
v.  
South Carolina Department  
of Corrections  
Defendant

IN The Court of Common Pleas  
CA No. 2022-CP-18-00442

Plaintiff's Answer To Defendant's motion  
To Dismiss Plaintiff's Amended Complaint

Exhibit F

FILED  
2023 MAY - 1 PM  
CLERK OF COURT  
DORCHESTER COUNTY

This matter is before the Court on pro se plaintiff's Benjamin Heyward, Answer to the defendant motion to dismiss plaintiff Amended Complaint. The defendant stated in the motion to dismiss, that the plaintiff failed to state a claim for which relief may be granted against the defendant and that defendant are immune from liability and that plaintiff's action is governed by the South Carolina workers' compensation Act.

### 1. Factual Background

on 1-5-23 the plaintiff's motion to Amend the Complaint to name South Carolina Department of Corrections as a defendant was granted. The defendant's motion to dismiss defendants Lisa Carrington and Gray Finch was also granted, and those defendants was dismissed from this action. The court then instructed plaintiff to file an Amended Complaint within 30 days from the date of the order, removing defendants Lisa Carrington and Gray Finch, and naming South Carolina Department of Corrections as the sole defendant in the action. The court did not state in the order, that the plaintiff's original Complaint was dismissed, as the defendant stated in its memorandum in support of its motion to dismiss plaintiff's Amended Complaint.

FILED  
2023 MAY - 1 PM 1:16  
CLERK OF COURT  
DORCHESTER COUNTY

## 2. Applicable Law/Legal standard

pursuant to South Carolina Rules of Civil procedure, Rule 12(b)(6) IN evaluating A motion to dismiss for failure to state facts sufficient to constitute A cause of action, the Circuit Court must view the facts alleged in the Complaint and any reasonable inferences to be drawn therefrom in the light most favorable to the plaintiff, if those facts and inferences would entitle the plaintiff on any theory, than A dismissal for failure to state A claim is improper. Hackworth v. Greywood, LLC 385 S.C. 110, 115, 682 S.E. 2d 871, 874 (2009).

The appellate Court applies the same standard of view of the Circuit Court. Doe v. Marion 373 S.C. 390, 395, 645, S.E. 2d 245, 247 (2007).

pursuant to the South Carolina Rules of Civil procedure, 12(b)(6), A Complaint should not be dismissed merely because doubt exists that the plaintiff's will ultimately prevail.

Further, dismissal for failure to state A claim upon which relief may be granted does not require appearance, beyond doubt, that plaintiff can prove no set of facts in support of claim that would entitle to relief. Conley v. Gibson 355 U.S. 41, 78, S.Ct. 99 2d 80 (1957).

The Defendant IS NOT immune From Liability  
 3. Under The South Carolina Tort Claim Act

In the case at issue, The defendant provided and instructed the plaintiffs to use An unsafe plastic cut Jug to put hot water in to work with, and as a result the plaintiff was burnt, and suffered with first and second degree burns to his back.

pursuant to the South Carolina Tort Claim Act, S.C. Code 15-78-60(5), The exercise of discretion or Judgment by the government entity or employee or the performance of failure to perform any act or service which is in the discretion or Judgment of the government entity or employee.

pursuant to the South Carolina Tort Claim Act, S.C. Code 15-78-60(25), An employee of a government entity responsibility or duty including but not limited to supervision, protection, control, confinement, or custody of any student, patient, prisoner, inmate or client of any government entity, "Except" when the responsibility or duty is exercised in a grossly negligence manner.

pursuant to South Carolina Tort Claim Act S.C. Code 15-78-70(b), nothing in this chapter may be construed to give an employee of a government entity immunity from suit and liability if it is proved that the employee's conduct was not within the scope of his official duties.

4. The plaintiff's Action is not governed by the South Carolina workers Compensation Act

### Legal Argument

workers Compensation Law: The Compensation Afforded by workers Compensation Act, is statutory in character, and the right of any claimant thereto is dependent upon terms and conditions of the Act, Cook v. Mack's Transfer and Storage, 352, S.E.2d 296, 298, (S.C. App 1988) Estate of Covington by Montgomery v. AT&T Nassau Metals Corp., 305 S.E.2d 393, 394, S.C. (1991),

pursuant to S.C. Code 42-1-160(A) (Injury and personal injury), mean only injury by "Accident" arising out of and in the course of employment,

pursuant to S.C. Code 42-1-160(F), the word "Accident" as used in this title must not be construed to mean a series of events in employment, of a similar or like nature, occurring regularly, continuously, or at frequent intervals in the course of such employment, over extended period of time.

In the case at issue, this was not an "Accident" that caused the plaintiff injury while working for the defendant, This was gross negligence by the defendant that caused plaintiff injury.

The defendant provided and instructed the plaintiff to use An unsafe plastic Cut Jug to put hot water in to work with. Further, The defendant failed to provided the proper maintenance to the hot pot machine in the dining area. As a result, the plaintiff sustained first and second degree burns to his back. Richardson v. Hambright 296, SC 504, 506, 374 S.E.2d 296, 298 (1988).

The defendant must take reasonable measures to guarantee the safety of the plaintiff. The defendant had actual knowledge of a substantial risk of harm to plaintiff and disregards that substantial risk. Hudson v. Palmer, 468 U.S. 517, 526-27 (1984).

The defendant aforesaid actions constituted negligence/gross negligence perse, and were wanton, willful, and careless. Oakman v. Lincare, Inc. WL 3549848 (2013) Richardson v. Hambright 296 S.C. 504, 506, 374 S.E. 2d 296, 298 (1988).

The defendant owes a duty of care to the plaintiff, the defendant breached that duty by a gross negligence act, the defendant breached was the proximately caused of the plaintiff injuries and damages. Meyer v. Anderson WL 17324998 (2022), Richardson v. Hambright 296 S.C. 504, 506, 374 S.E. 2d 296, 298 (1988).

The remedy provided by this Chapter is the civil remedy available for any "tort" committed by a government entity, its employees or its agents as provided in S.C. Code 15-78-70(b). The plaintiff requests Actual damages for \$75000.00 and punitive damages for \$75000.00 against defendant.

### Conclusion

For the reasons prescribed herein, the defendant's motion to dismiss should be deny, and this case set for trial again.

Dated April 26, 2023

/s/ Benjamin Hayward  
pro se plaintiff

State of South Carolina  
County of Dorchester  
Benjamin Heyward  
Plaintiff

v.

South Carolina Department  
of Corrections

Defendant

IN The Court of Common Pleas <sup>Exhibit-k</sup>  
CA No. 2022-CP-18-00442

Certificate of Service

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NOV 22 2023

SC Court of Appeals

on April 26, 2023, Benjamin Heyward hereby certifies that I have served the defendant Attorney with a copy of the Answer to the defendant motion to dismiss plaintiff's Amended Complaint by United States mail, postage prepaid, to the Address below.

Hood Law Firm, LLC  
Ellore A. Ganes  
172 meeting Street  
PO Box 1508  
Charleston, SC 29402

Benjamin Heyward

FILED-REC'D  
2023 MAY -1 PM 1:11  
CHIEF CLERK  
CLERK OF COURT  
DORCHESTER COUNTY

CERTIFIED COPY  
2023 MAY -1 PM 1:16  
DORCHESTER COUNTY

## Facts

The court reporter stated in the transcript on page three that "no exhibits" marked by court reporter during hearing.

Appellant stated at the hearing there was exhibits. Appellant stated that there was Exhibits-B, which was the unsafe plastic cut Jug that Respondent provided for Appellant to put hot water in while working, and Exhibits C-D, and E, which is the unsigned orders.

During the hearing Appellant informed the trial court that Respondent Attorney Ms. Ganes Failed to send Appellant a copy of the motion to continue and motion to dismiss Appellant's Amended Complaint.

The trial court asked Ms. Ganes and Ms. Ganes admitted she failed to send Appellant a copy, and the court reporter failed to put this information in the transcript.

The trial court then told Ms. Ganes that the trial court would hear this case, and the court reporter failed to put this information in the transcript. Also, the trial court lied about hearing this case because it's on Appeal.

The state of South Carolina  
IN The Court of Appeals  
IN The Supreme Court

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SC Court of Appeals

Appeal From Dorchester County  
Court of Common Pleas  
Maite Murphy, Circuit Court Judge

CASE NO. 2023-000920

South Carolina Department of Corrections, Respondent,

v.

Benjamin Heyward, Appellant

PROOF OF SERVICE

I Certify that I have served the Appendix To the Brief of Appellant by depositing a copy of it in the United States mail, postage prepaid, on November 20, 2023 to Respondent Attorney Addressed to Mrs. Ellore A. Ganes, HOOD Law Firm LLC, 172 Meeting Street, P.O. Box 1508, Charleston, SC 29402

Benjamin Heyward  
Attendale Corr Inst  
1057 Revolutionary Trail  
Fairfax, SC 29827

S.C. Court of Appeals  
Jenny A. Kitchings, Clerk  
P.O. Box 11629  
Columbia, SC 29211

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NOV 22 2023  
SC Court of Appeals

RE: Heyward V. SCDC  
Case No. 2023-000920

Dear Ms. Kitchings:

Enclosed for filing is Appellant's Appendix to the Brief.  
Thank you for your time and effort to this matter.

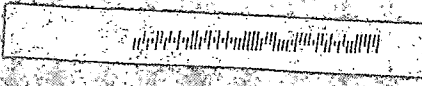
Date 11-20-23

cc: Ellore A. Ganes, Esquire

Sincerely  
Benjamin Heyward  
pro se Appellant

Benjamin Hayward #165514 FIP 2  
Attended Court 2/25/23  
1057 Revolutionary Trail  
Fairfax SC 29211

US POSTAGE  
7P 28877 \$002.55  
02 CIT  
300037891610V 20 2022



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