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STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS

COUNTY OF BERKELEY

NOV 22 2023

Muhammad Nathaniel Wilson, Pro Se

SC Court of Appeals

C/A No. 2022-CP-08-02508

Plaintiff,

Versus

ORDER GRANTING DEFENDANTS' MOTION TO DISMISS, or in the alternative, MOTION FOR SUMMARY JUDGMENT

Hanahan Police Department & Other Law Enforcement officials,

Defendants.

This matter is before the Court on the Defendants Hanahan Police Department & Other Law Enforcement official's (hereinafter "Defendants"), Motion to Dismiss pursuant to Rules 12(b)(5) and 12(b)(6) of the South Carolina Rules of Civil Procedure. Alternatively, the Defendants also brought a Motion for Summary Judgment. The Defendants basis of the motions are that the Plaintiff failed to file this lawsuit within the applicable statute of limitations, the same facts alleged in this case have already been litigated in Federal District Court and the South Carolina Court of Common Pleas for Berkeley County, and that the Complaint fails to state a claim upon which relief may be granted. Based on the record and facts as shown by the Defendants, the Defendants' motion is hereby GRANTED.

FACTUAL BACKGROUND

The Pro Se Plaintiff previously filed suit on September 9, 2020. (C/A No. 2020-CP-08-01987). That action was removed to U.S. District Court. Summary Judgment was granted as to Plaintiff's Federal Claims and the state law claims were remanded to state court. Defendants then filed a Motion for Summary Judgment in state court, which was granted on August 15, 2022.

Plaintiff's Complaint includes a signed indictment and an incident report from the Hanahan Police Department. The Hanahan Police Department incident report indicates that its department was dispatched to Plaintiff's residence for a domestic dispute on August 14, 2018. Officers arrived

at the Plaintiff's residence around 6:31 am. Upon arrival, the responding officer witnessed Plaintiff coming out of the residence and noted that he and his girlfriend were involved in an argument. Further investigation revealed that the argument was related to Plaintiff's inappropriate conduct of a sexual nature toward the girlfriend's daughter.

DISCUSSION

A. *The Plaintiff's Complaint was filed after the expiration of the applicable Statute of Limitations.*

Plaintiff filed this Complaint on October 17, 2022. The action is governed by the South Carolina Tort Claims Act. South Carolina Code §15-78-110 provides the applicable Statute of Limitations for all actions brought pursuant to the South Carolina Tort Claims Act. This section states that any action is forever barred unless the action is commenced within two years after the date of loss was or should have been discovered.

Plaintiff's Complaint alleges the injuries related to this lawsuit were sustained from August 14, 2018, through August 15, 2019. As such, the Statute of Limitations expired on August 15, 2021. The Complaint was filed on October 17, 2022, and therefore, it is barred.

B. *The Plaintiff's Claims are barred by the doctrine of Collateral Estoppel.*

Collateral estoppel occurs when a party in a second action seeks to preclude a party from relitigating an issue which was decided in a previous action. *S.C. Prop. & Cas. Ins. Guaranty Ass'n v. Wal-Mart Stores, Inc.*, 304 S.C. 210, 213, 403 S.E.2d 625, 627 (1991). In *Wal-Mart Stores, Inc.*, this Court adopted the general rule set forth in the Restatement (Second) of Judgments §§ 27 (1982). *Id.* "Section 27 provides that when an issue of fact or law is actually litigated and determined by a valid and final judgment, and the determination is essential to the judgment, the determination is conclusive in a subsequent action between the parties, whether on the same or a different claim." *Id.* (*emphasis added*).

Stated another way, "[t]he party asserting collateral estoppel must demonstrate that the issue in the present lawsuit was: (1) actually litigated in the prior action; (2) directly determined in the prior action; and (3) necessary to support the prior judgment." *Carolina Renewal, Inc. v. S.C. Dep't of Transp.*, 385 S.C. 550, 554, 684 S.E.2d 779, 782 (Ct. App. 2009).

In this case, Plaintiff's claims have already been litigated and directly determined. The United States District Court determined that Plaintiff's arrest did not amount to a violation of his rights because there was probable cause to believe the Plaintiff committed the offense of unlawful conduct towards a child. Further, the court found that Plaintiff admitted he had engaged in inappropriate sexual conduct in front of a child. Plaintiff's remanded state law claims were then dismissed on the merits and/or pursuant to the doctrine of collateral estoppel, as probable cause was found to exist.

Therefore, Plaintiff's claims are barred by the doctrine of Collateral Estoppel.

C. *Defendants are Immune from Liability under the South Carolina Tort Claims Act.*

The Hanahan Police Department is protected by the South Carolina Tort Claims Act. 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 are 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). The South Carolina Tort Claims Act provides, "[t]he provisions of this chapter establishing limitations on and exemptions to the liability of the State, its political subdivisions, and employees, while acting within the scope of official duty must be liberally construed in favor of limiting the liability of the

State.” S.C. Code Ann. §15-78-20(f). Furthermore, S.C. Code Ann. §15-78-60 states, “The governmental entity is not liable for a loss resulting from:

- (5) the exercise of discretion or judgment by the governmental entity or employee or the performance or failure to perform any act or service which is in the discretion or judgment of the governmental entity or employee;

* * *

- (20) an act or omission of a person other than an employee including but not limited to the criminal actions of third persons;

* * *

- (25) responsibility or duty including but not limited to supervision, protection, control, confinement, or custody of any student, patient, prisoner, inmate, or client of any governmental entity except when the responsibility or duty is exercised in a grossly negligent manner.”

Here, the individual Officers and employees related to this incident performed discretionary tasks with no evidence of grossly negligent conduct. Plaintiff offers only bare and conclusory allegations and fails to specifically reference any action on the part of this Defendant that would tend to show that its “conduct was not within the scope of official duties or that it constituted actual fraud, actual malice, intent to harm, or a crime involving moral turpitude.” S.C. Code Ann. § 15-78-70(b). However, even if Plaintiff referenced any such actions from Defendant, this Defendant is still not liable for losses resulting from acts or omissions as a governmental agency acting appropriately within its discretion and judgment through its agents and employees. In this respect, officers must exercise a certain degree of discretion in carrying out their duties to promote safety and general welfare to the public at large. The Tort Claims Act absolved officers explicitly from liability when the injury complained of is due to an appropriate exercise of discretion. The officers in this case appropriately apprehended the Plaintiff based on probable cause. Therefore, the Plaintiff has failed to bring claims upon which relief may be granted.

Based on the foregoing, the Defendants' Motion for Summary Judgment is hereby GRANTED.

IT IS SO ORDERED.



Berkeley Common Pleas

Case Caption: Muhammad N. Wilson VS Hanahan Police Department
Case Number: 2022CP0802508
Type: Order/Other

So Ordered

s/Jennifer B. McCoy #2764

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