

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
COUNTY OF FLORENCE)	TWELFTH UDICIAL CIRCUIT
Tyrone Roberson,)	Civil Action No. 2021-CP-21-01745
)	
Plaintiff,)	
)	
vs.)	<u>ORDER OF DISMISSAL</u>
)	
Joseph P. McClean, Bryan Stirling as the)	
Director of the South Carolina Department)	
of Corrections, and SCDC State Agency)	
Employee Insurer,)	
)	
Defendants.)	

RECEIVED

DEC 19 2023

SC Court of Appeals

This matter came before the Court on November 8, 2023, on Plaintiff's Motion to Amend, Plaintiff's Motion per Rule 18b, Plaintiff's Motion/Objection to ADR and Writ of Execution, and Plaintiff's Motion for Reasonable Expenses Including Attorney's Fees and Costs for Defendants failing to answer Requests for Admissions. Tyrone Roberson appeared *pro se*, and J. Calhoun Watson appeared for Defendant Joseph P. McLean.

As the hearing began, the Court recognized counsel for Joseph P. McLean who requested that the matter be dismissed since there is no case or controversy before the Court. The basis for this request is that Plaintiff has only served Defendant Bryan Stirling, who was dismissed more than one year ago, and no other defendants have been served. After considering the record and arguments of Plaintiff and counsel for Joseph P. McLean, the Court makes the following findings and conclusions of law:

This action was filed on August 16, 2021. Defendant Bryan Stirling was served on November 12, 2021, and filed a motion to dismiss dated December 13, 2021. The motion to dismiss was granted by the Honorable George M. McFaddin, Jr. by Order dated April

GERTIFIED: A TRUE COPY

Donna Parks Ottora
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.

27, 2022. After no affidavits of service as to the remaining defendants were filed with the court during the following year, the clerk's office issued a Dormant File Notice on June 15, 2023. This Notice directed Plaintiff to "respond within ten (10) days from the date of this letter with the appropriate motion or Affidavit of Service. This case will be dismissed pursuant to South Carolina Rule of Civil Procedure 5(d) if you do not timely respond." Plaintiff did not file an appropriate motion or Affidavit of Service within ten day period set out in the Dormant File Notice.

On July 6, 2023, this Court filed an Order indicating that "[t]he Plaintiff has (60) days from the date of this Order to properly serve the remaining Defendants, or the case will be dismissed." Again, Plaintiff did not file any Affidavits of Service with the court within the sixty-day period or at any time after the 60-day period ended.

As has been clearly established in South Carolina, *pro se* litigants are held to the same standard as attorneys. *State v. Burton*, 356 S.C. 259 n.5, 589 S.E.2d 6, 9 n.5 (2003) ("A *pro se* litigant who knowingly elects to represent himself assumes full responsibility for complying with substantive and procedural requirements of the law.") By failing to serve the remaining parties and file an Affidavit of Service, Plaintiff Roberson has not met the basic requirements necessary to commence a lawsuit as set out by the Rules 3 and 4 of the South Carolina Rules of Civil Procedure. Rule 5(d) requires that "[p]roof of service shall be filed within ten days after service of the summons and Complaint. Upon failure to serve the summons and complaint, the action may be dismissed by the court on the court's own initiative or upon application of the party." Plaintiff has not complied with the Dormant File Notice, dated June 15, 2023; the Order of this Court, dated July 6, 2023, or the Rules 2, 3, and 5 of the South Caroling Rules of Civil Procedure.



Florence Common Pleas

Case Caption: Tyrone Roberson VS Joseph Mclean , defendant, et al
Case Number: 2021CP2101745
Type: Order/Dismissal

So Ordered

s/ The Honorable Michael G. Nettles #2140

Electronically signed on 2023-11-09 16:07:12 page 4 of 4

CERTIFIED: A TRUE COPY
Donna Paula Ottone
CLERK OF COURT C.P. & G.S.
FLORENCE COUNTY, S.C.