



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
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July 10, 2013

Willie Junior Hines, 00240466
Perry Correctional Institution
430 Oaklawn Road
Pelzer SC 29669

Re: Willie Junior Hines v. SCDC
Appellate Case No. 2012-212891

Dear Mr Hines:

Enclosed are a copy of Judge Welmaker's order dated June 22, 2012, and a copy of your Motion for Rehearing En Banc dated October 8, 2012. Also enclosed are the order of dismissal dated October 2, 2012, and copies of the panel order dated June 13, 2013, and accompanying letter of that date.

Very truly yours,

V. Claire Allen, Deputy

CLERK

cc: Steven Michael Pruitt

The South Carolina Court of Appeals

Willie Junior Hines, Appellant

v.

South Carolina Department of Corrections

Respondent

Appellate Case No. 2012-212891

The Honorable E. Edward Welmaker
Greenville County

Trial Court Case No. 2012-CP-2351066

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Motion For
Rehearing en banc

SC COURT OF APPEALS
OCT 16 2012
RECEIVED

Appellant request that a rehearing to his appeal be granted for the following reasons:

- 1.) Appellant misconceived that since he was granted ~~in forma pauperis~~ to file his complaint he thought it still applied with the appeal case.
- 2.) Appellant sent the only documents the Court sent to him with the notice of appeal he didn't understand what is being required when he followed Rule 203, South Carolina Appellate Court + Rule 2.

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to the best of his ability. Appellant can not file documents that he has never received.

3.) It will be a miscarriage of justice not to give Appellant a hearing on the issues that is before this Honorable Court.

4.) Appellant is Indigent and a layman and have tried his best to do what is right.

5.) Appellant First Amended Constitutional right is being Infringed which is equal protection and right to the Courts citing 14-3-320 and 14-3-330.

6.) Appellant Case was ordered to be put on Jury Trial roster by the Honorable Judge DeAndrea Co Benjamin (Judge Code 2161) dated January 19, 2012. see exhibit

WILLIAMS, Appellant would like to request a rehearing on the Appeal before this Honorable Justice System

Date October 2, 2012

Respectfully Submitted
Willie Junior Hines
Willie Junior Hines

CC: Jenny A. Kitchings

Steven Michael Pruitt

The South Carolina Court of Appeals

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Willie Junior Hines, Appellant

v.

South Carolina Department of Corrections, Respondent

Appellate Case No.: 2012-212891

The Honorable G. Edward Welmaker

Greenville County

SC Court of Appeals Trial Court Case No. 2012-CP-2301066

RECEIVED
OCT 18 2012

PROOF OF SERVICE

I Willie Junior Hines (Appellant) hereby certify that I have this 9th day of October served a motion for rehearing upon the addresses below through Perry Correctional Institution Legal Mail System:

<u>Clerk of Court</u>	<u>Attorney</u>
Jenny Abbott Kitchings	Steven Michael Pruitt
Post Office Box 11629	Post Box 1547
Columbia S.C. 29211	Greenwood, SC 29648

Subscribed and sworn to before me this 9th day of October 2012

Notary Public Wendell H. Hatcher
Exp: November 7, 2016

Willie Junior Hines
Willie Junior Hines

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STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

) IN THE COURT OF COMMON PLEAS
) THIRTEENTH JUDICIAL CIRCUIT
) CIVIL ACTION NO. 2012-CP-23-01066

Willie Junior Hines, #240466

Plaintiff,

vs.

SCDC,

Defendant.

ORDER

2012 JUN 19 10:50 AM
CLERK OF COURT
GREENVILLE, S.C.

This matter is before me on Defendant's Motion for Summary Judgment. A hearing was held on this matter on June 19, 2012 at which time Steven M. Pruitt, Esquire, appeared on behalf of Defendant and the Plaintiff appeared pro se. The Court grants Defendant's Motion and finds that Plaintiff's action will be dismissed if he has not submitted an affidavit from an expert witness as discussed further below within 60 days from the date of this Order.

The Plaintiff alleges that Defendant failed to provide him with proper medical care in relation to an injury to his arm/wrist that occurred on or about April 8, 2010. Defendant moved to dismiss this action as Plaintiff failed to name an expert witness. The South Carolina Court of Appeals stated "[in] medical malpractice cases, the plaintiff must establish by expert testimony both the standard of care and the defendant's failure to conform to the standard . . .". See Tumblin v. Ball-Incon Glass Packaging, 324 S.C. 359, 478 SE.2d 81, 84 (Ct. App. 1996); citing Pederson v. Gould, 288 S.C. 141, 341 S.E.2d 633 (1976) and Jernigan v. King, 312 S.C. 331, 440 S.E.2d 379 (Ct. App. 1993). The Court of Appeals in Bothelo v. Bycura, 282 S.C. 578, 320 S.E.2d 59 (Ct. App. 1984) stated "[t]he reason for requiring expert testimony is that matters of proper diagnosis and treatment ordinarily involve technical knowledge beyond the ken of layman." Bothelo v. Bycura,

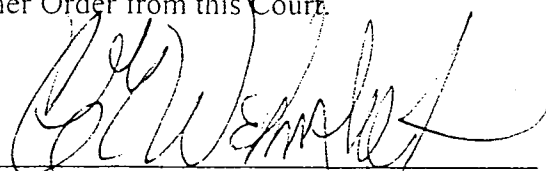
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282 S.C. 578, 320 S.E.2d 59, 62 (Ct. App. 1984). The Court of Appeals found that in a motion by the defendant for summary judgment, "there will usually be no genuine issue of material fact unless the plaintiff presents expert testimony on the standard of care and its breach by the defendant." Id. at 62-63.

Defendant also argues that Plaintiff has failed to provide expert testimony that any acts of the Defendant were the proximate cause of any injury to the Plaintiff. The Supreme Court stated in Tumblin that "[e]xpert testimony is also generally required to establish proximate cause in a medical malpractice case." Tumblin, 478 S.E.2d at 84 (citing Bramlette vs. Charter-Medical-Columbia, 302 SC 68, 393 S.E.2d 914 (1990)). The Plaintiff claims that the inadequate medical care has caused him harm, but has failed to provide any expert testimony establishing that any action or inaction on the part of the Defendant was the proximate cause of any injury to the Plaintiff.

The Plaintiff has failed to identify any expert in this case and confirmed at the hearing that he has not retained an expert. The law is clear that expert testimony is required to establish the standard of care, breach of the standard, and proximate cause of injury. The Plaintiff requested additional time to retain an expert. The Court rules that the Plaintiff shall have 60 days from the date of this Order to retain an expert and to submit an affidavit from said expert to the Court. The affidavit shall set forth the applicable standard of care, how Defendant breached this standard of care, and that actions of the Defendant were the proximate cause of injury to the Plaintiff. If Plaintiff fails to submit an affidavit from an expert within 60 days from the date of this Order, his action will be dismissed, with prejudice, without need for further Order from this Court.

IT IS SO ORDERED.



G. Edward Welmaker, Thirteenth Judicial Circuit

6/22, 2012
Greenville, South Carolina

The South Carolina Court of Appeals

Willie Junior Hines, Appellant,

v.

South Carolina Department of Corrections, Respondent.

Appellate Case No. 2012-212891

The Honorable G. Edward Welmaker
Greenville County
Trial Court Case No. 2012CP2301066

ORDER

Appellant has failed to provide the \$100 notice of appeal filing fee and a statement of when the appellant received the decision from which the appeal is taken, as required by Rule 203 of the South Carolina Appellate Court Rules and our letter dated September 13, 2012. Accordingly, this matter is dismissed. The remittitur will be sent as provided by Rule 221(b), SCACR.

FOR THE COURT

COPY BY Jenny A. Kitching
CLERK

Columbia, South Carolina

cc:

Willie Junior Hines, 00240466

Steven Michael Pruitt

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The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
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V. CLAIRE ALLEN
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June 13, 2013

Willie Junior Hines, 00240466
Perry Correctional Institution
430 Oaklawn Road
Pelzer SC 29669

Re: Willie Junior Hines v. SCDC
Appellate Case No. 2012-212891

COPY

Dear Counsel:

Enclosed is a copy of an order of the panel denying your petition for rehearing. Your petition for rehearing en banc was distributed to the judges, but it has been rejected. See Rule 219, SCACR.

Very truly yours,

V. Claire Allen, Deputy

CLERK

cc: Steven Michael Pruitt

The South Carolina Court of Appeals

Willie Junior Hines, Appellant,

v.

South Carolina Department of Corrections, Respondent.

Appellate Case No. 2012-212891

ORDER

After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.

Thomas El Siff J.

W. B. [Signature] J.

A. Ke J.

Columbia, South Carolina

COPY

cc:

Willie Junior Hines, 00240466

Steven Michael Pruitt

FILED
6-13-13