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**Jan 26 2024**

**SC Court of Appeals**

**STATE OF SOUTH CAROLINA  
In the Court of Appeals**

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Appeal from Dorchester County  
Court of Common Pleas

The Honorable Maite Murphy, Circuit Court Judge

Trial Court Case No. 2022-CP-18-00442  
Appellate Case No. 2023-000920

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Benjamin Heyward,

Appellant,

v.

South Carolina Department of Corrections,

Respondent.

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**FINAL BRIEF OF RESPONDENT**

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## **STATEMENT OF THE CASE**

Appellant Benjamin Hayward, proceeding *Pro Se*, originally filed the underlying action on March 10, 2022. The Appellant is currently incarcerated within the South Carolina Department of Corrections at Allendale Correctional Institution. Appellant's original Complaint was dismissed, but Appellant was granted leave to amend his Complaint to substitute the South Carolina Department of Corrections as the Defendant. [Order ROA 16; Amended Complaint, ROA 26]

Appellant's case involves a cause of action against the Respondent 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.

The Respondent moved to dismiss the action pursuant to SCRCP 12(b)(6) based on Appellant's Claims being governed by the South Carolina Worker's Compensation Act due to injuries sustained while serving in an employment function during his incarceration. [Motion to Dismiss, ROA 37] The Motion to Dismiss was granted on May 11, 2023, [Order, ROA 17] and Appellant now appeals that Order.

## **STATEMENT OF THE FACTS**

In his Complaint, the Appellant alleges he started working in the cafeteria at MacDougall Correctional Institution in January 2020. Appellant further alleges that on April 19, 2020, while working in the dining area, a plastic jug of hot water being used to aid in cleaning turned over and fell on his back, causing him injury.

## STANDARD OF REVIEW

Under 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).

## ARGUMENT

### I. IDENTIFICATION OF THE ISSUES RAISED ON APPEAL

Rule 208(b)(1)(B) of our appellate rules, provide that an appellant's brief must contain: "A statement of each of the issues presented for review. The statement shall be concise and direct as to each issue, and may be stated in question form. Broad general statements may be disregarded by the appellate court. Ordinarily, no point will be considered which is not set forth in the statement of the issues on appeal." Thus, as a threshold matter, it is proper and necessary to identify/clarify the issues that Plaintiff is raising in his appeal.

By its order, the Circuit Court granted Defendant's Motion to Dismiss Plaintiff's sole claim for Negligence/Gross Negligence. [Order, ROA 17]. Plaintiff's statements of arguments challenge largely alleged errors in the hearing transcript from the Court reporter. [Transcript, ROA 1-13]. These arguments contain no real errors that influence the decision of the Circuit Court.

Appellant provides no arguments on why the Circuit Court erred, but simply asserts that it did fail in finding no claim for which relief may be granted against the Respondent. Appellant's position merely asserts broad general statements, and therefore should be disregarded on this appeal.

## **II. THE CIRCUIT COURT PROPERLY GRANTED THE DEFENDANT'S MOTION TO DISMISS**

The 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).

Here, Appellant's Complaint seeks recovery for injuries he allegedly sustained while working in the cafeteria at McDougall Correctional Institution in April 2020. [Amended Complaint, filed January 23, 2023, ROA 26]. Appellant was working as a cafeteria worker when the incident occurred, and Plaintiff's sole recovery is governed by the South Carolina Worker's Compensation Act. S.C. Code §42-1-100 *et seq.* Section 41-1-480 of the act specifically addresses the coverage provided to inmates of the Department of Corrections:

*Any inmate of the State Department of Corrections, as defined in this section, in the performance of his work in connection with the maintenance of the institution, any department vocational training program, or with any industry maintained therein, or with any highway or public works activity outside the institution, who suffers an injury for which compensation is specifically prescribed in this title, may, upon being released from such institution either upon parole or upon final discharge, be awarded and paid compensation under the provisions of this title. If death results from such injury, death benefits shall be awarded and paid to the dependents of the inmate. The time limit for filing a claim under this section shall be one year from the date of death of the inmate or the date of his release either by parole or final discharge, and no inmate shall be eligible for benefits unless his injury is reported prior to his release from custody of the department. If any person who has been awarded compensation under the provisions of this section shall be recommitted to an institution covered by this section, such compensation shall immediately cease, but may be resumed upon subsequent parole or discharge.*

*For purposes of this section, the term "inmate" includes any person sentenced to the South Carolina Department of Corrections and who is then in the jurisdiction of the department, or any person sentenced to the county public works who has been transferred to the Department of Corrections for confinement. An inmate who has been sentenced to the Department of Corrections and who is temporarily transferred to the county public works, or to any other South Carolina law-enforcement authority, or to out-of-state authorities, is not considered to be in the "jurisdiction" of the South Carolina Department of Corrections for purposes of this section.*

*This section shall not apply to patients of the South Carolina Department of Mental Health or those persons who are confined within the jurisdiction of the county prisons, county jails, city jails or overnight lockups or to any inmate injured in a fight, riot, recreational activity or other incidents not directly related to his work assignment.*

In the underlying action, the Circuit Court was also provided with an affidavit from Mr. Russell Rush, who is employed by the South Carolina Department of Corrections. [Exhibit 1, Memorandum in Support Motion to Dismiss, ROA 42-43]. Mr. Rush's affidavit confirmed that SCDC submits claims of inmates' injuries alleged to have been sustained while working in connection with the maintenance of the institution to the State Accident Fund pursuant to S.C. Code §42-1-480. Appellant's sole remedy for his alleged injuries is governed by the South Carolina Worker's Compensation Act. The Appellant has not provided any arguments to dispute the above.

Therefore, the Appellant has failed to state a claim for which relief may be granted against the Respondent.

**CONCLUSION**

Wherefore, based on the foregoing, the Respondents respectfully submit that the Order granting Dismissal of Plaintiff's Claims should be affirmed.

Respectfully Submitted,

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**January 26, 2024**  
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The undersigned certifies that the Final Brief of Respondents complies with Rule 211(b), SCACR.

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**January 26, 2024**  
Charleston, South Carolina

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Benjamin Heyward,

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South Carolina Department of Corrections,

Respondent.

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**CERTIFICATE OF SERVICE**

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The undersigned certifies that on this 26<sup>th</sup> day of January, 2024, a copy of the Final Brief on behalf of Respondent South Carolina Department of Corrections was served by mailing a copy of each, on the following at the address listed below:

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**January 26, 2024**

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**Via E-Filing and U.S. Mail**

The Honorable Jenny Abbott Kitchings  
Clerk, South Carolina Court of Appeals  
1220 Senate Street  
Columbia, SC 29211

Re: Benjamin Heyward v. South Carolina Department of Corrections  
C/A No. and Jurisdiction: 2022-CP-18-00442, Dorchester CP  
Appeal No. 2023-000920  
HLF File No. 1.446

Dear Ms. Kitchings:

Enclosed for filing please find the bound copy of the **RESPONDENTS' FINAL BRIEF**, along with the Certificate of Service in the above-referenced case, which is also being filed electronically. By copy of this letter, I am serving Appellant by mail.

Kind regards,

Yours truly,



Ellore A. Ganes

EAG/jad  
Enclosures

cc: Benjamin Heyward #165514  
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