

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF DILLON )  
 )  
Elizabeth Denice McLeod, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
Dillon County, City of Latta, Kernard )  
Redmond and Derrick Cartwright, )  
 )  
Defendants. )  
 )  
\_\_\_\_\_ )

IN THE COURT OF COMMON PLEAS

C/A #: 21-CP-17-00284

*Proposed*

**ORDER GRANTING  
MOTION TO DISMISS  
AND IN THE ALTERNATIVE  
FOR SUMMARY JUDGMENT ON  
BEHALF OF DILLON COUNTY**

This matter comes before the Court pursuant to a motion to dismiss and in the alternative, a motion for summary judgment filed by the Defendant Dillon County. The Court heard oral arguments pursuant to that motion. After consideration of the oral arguments, the motion, the pleadings, the exhibits, and arguments of the respective parties, to include the prior and substantially similar motions, memoranda, and related arguments raised by the co-defendants City of Latta, Kernard Redmond, and Derrick Cartwright, as well as the prior arguments raised by the Plaintiff, the Court hereby grants the motion to dismiss by Defendant Dillon County.

The Plaintiff alleges that on July 1, 2005, she was arrested and charged: 1) possession with intent to distribute cocaine pursuant to S.C. Code Ann. § 44-53-370; and 2) distribution of a controlled substance within proximity of a school pursuant to S.C. Code Ann. § 44-53-445. Plaintiff further alleges that the distribution charge was dismissed on July 25, 2005, and she entered a guilty plea on the remaining charge on November 5, 2005. At that time, the Plaintiff asserted that the charge for possession with intent to distribute cocaine was reduced to possession of cocaine.

The Plaintiff further alleges that the Court made a scrivener's error on the sentencing sheet issued by the then-presiding Judge of the Dillon County Court of General Sessions because the

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correct CDR code for possession of cocaine was not provided on the sentencing sheet; however, that document also plainly reflects that the reduced misdemeanor charge was expressly written as “Poss of Cocaine” and the corresponding items were checked to indicate a plea to a “Lesser-Included Offense.” The sentencing sheet further shows that both the Plaintiff and her criminal defense counsel, appointed through the Public Defender’s Office, both reviewed and signed the document. While the Plaintiff does not make reference to any other matters included at the time of her guilty plea, the sentencing sheet further and plainly reflects that the Plaintiff also pled to a probation violation which occurred after the Plaintiff entered a guilty plea to Burglary in the Second Degree on July 15, 2004 on Indictment No. 2004-GS-17-0440. Further reference to the certified copy of Plaintiff’s sentencing sheet for Burglary in the Second Degree corroborates the same.

Plaintiff ultimately asserts that the scrivener’s error on the sentencing sheet issued by the presiding Judge of the Court of General Sessions on November 5, 2005, caused her to be unable to obtain employment for fifteen (15) years. She further asserts that the scrivener’s error caused her to receive various overpayment demand letters relative to certain benefits because she failed to report a felony conviction. Upon review of the Complaint, the Plaintiff does not assert, allege, or concede that she properly reported a felony conviction for Burglary in the Second Degree, and it appears that she further discounts the effects a felony conviction for Burglary in the Second Degree may or may not have had relative to her employment.

In response to the Plaintiff’s Complaint, Defendants have filed various motions to dismiss. The Court now grants Dillon County’s motions on the grounds that the Plaintiff’s claims are barred by the statute of limitations and by S.C. Code Ann. §§ 15-78-60(1) and (2). Furthermore, the Plaintiff’s claims for costs and punitive damages are further barred by S.C. Code Ann. § 15-78-

120(a). In this case, all the grounds raised by Defendant Dillon County, and the similarly situated co-defendants, bar Plaintiff's action.

The South Carolina Tort Claims Act ("Tort Claims Act") provides the "exclusive civil remedy available for any tort committed by a governmental entity, its employees or its agents." S.C. Code Ann. § 15-78-20(b). Under the Tort Claims Act, the statute of limitations for suit against a governmental entity or its employees is two years after the "date the loss was or should have been discovered." S.C. Code Ann. § 15-78-110. If the action is not brought within the required statute of limitations, it is "forever barred." *Id.* A loss should be discovered when the "circumstances would put a person of common knowledge and experience on notice that some right has been invaded, or that some claim against another party might exist." *Joubert v. DSS*, 341 S.C. 176, 191, 534 S.E.2d 1, 9 (Ct. App. 2000). In addition, S.C. Code Ann. §15-3-550 further provides that actions for libel or slander must be commenced within two (2) years. *Jones v. City of Folly Beach*, 326 S.C. 360, 368, 483 S.E.2d 770, 774 (Ct. App. 1997). This Court agrees that even if Plaintiff could have articulated a cognizable claim against the Defendant Dillon County, since she did not file the Complaint until July 19, 2021, her claims for negligence and defamation (pled as libel and libel per se) are barred by the statute of limitations.

Likewise, Plaintiff complains of acts which she seeks to attribute to the negligence of the Defendants and the Defendant Dillon County. However, Plaintiff failed to account for a prior occurring felony conviction and probation violation for Burglary Second Degree and failed to account for various other procedural matters. More specifically, the Defendant Dillon County, nor any of its employees, had the capacity to issue a sentence and the corresponding sentencing sheet in conjunction with Plaintiff's guilty plea to possession of cocaine. Such matters are within the exclusive province of the presiding Judge for the Court of General Sessions. Thus, it is also

clear that Plaintiff's claims are further barred by S.C. Code Ann. §§ (1) and (2), which provide that a "governmental entity is not liable for a loss resulting from: (1) legislative, judicial, or quasi-judicial action or inaction ... [or] ... (2) administrative action or inaction of a legislative, judicial, or quasi-judicial nature." This Court is not previously persuaded that the actions or inactions of a former presiding Judge for the Dillon County Court of General Sessions gives rise to liability in this case. This Court agrees and hereby holds that the Plaintiff's claims are further barred by the plain language of S.C. Code Ann. §§ 15-78-60 (1) and (2).

IT IS THEREFORE ORDERED that Defendant's motion to dismiss is GRANTED, and this action is hereby DISMISSED with prejudice and forever ended against Defendant Dillon County in accordance with the reasoning set forth above.

AND IT IS SO ORDERED.

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Honorable Michael S. Holt  
Chief Administrative Judge of the 4<sup>th</sup> Circuit

Dillon, South Carolina

\_\_\_\_\_, 2023



Dillon Common Pleas

**Case Caption:** Elizabeth Denice Mcleod VS The State Of South Carolina , defendant,  
et al  
**Case Number:** 2021CP1700284  
**Type:** Order/Dismissal

So Ordered

s/ Michael S. Holt, 2772