

IN THE STATE OF South Carolina
In THE Court of Appeals

Appeal from Charleston County
Court of Common Pleas

R. Markley Dennis Jr, Circuit Court Judge

Amended Notice of Appeal
On Declaratory Judgment

Case no. 2013-001520

Demetrius J. Small..... Appell.....
vs.

Charleston County Sheriff's Office..... Resp.....

RECEIVED

AUG 08 2013

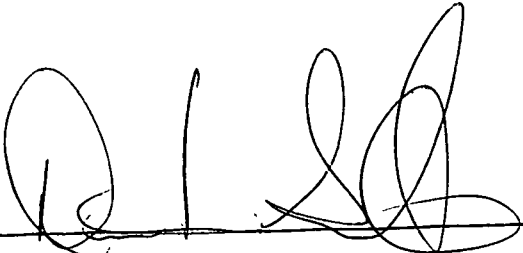
SC COURT OF APPEALS

Amended Proof of Service

Under the appellate Court Rules of South Carolina, the appellate proof of service and Amended Notice of Appeal is in conformity with Form 7 in Appendix C to part 2 of the SCACR, and Rule 267(a), SCACR.

I certify that on June 28, 2013, I received written notice of entry of Order or judgment from which this appeal is taken. In furtherance, I certify that I have served the Amended notice of Appeal ~~by~~ by depositing a copy of in the United States Mail, postage pre-paid, on 8/11/13, addressed to the attorney of record, C. Wade Cooper, Esq., in case no. 2012-CP-10-8250, at P.O. Box 2424 Mt. Pleasant, SC 29464, through Lieber Correctional Institution's mailroom.

8/11/13
DATE

SI 

Address & Signature
of Prose Litigant
Demetrius D. Small # 286806

RECEIVED

AUG 08 2013

SC Court of Appeals

P.O. Box 205
Ridgeville, SC 2942

Prisoner Request to Staff member

To: Ms. Perry | Business office | Date 7/28/13

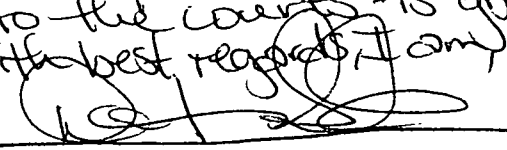
Demetrius J. Smalls || 286806
Prisoner Name | Agency no.

RECEIVED

JUL 29 2013

BUSINESS OFFICE

Lieber Corr. Institution | EA-19
Institution | Living Assignment

Please provide a written statement of the total deposits to my account for the preceding six months. I have an appeal to file in 6 more days and a filing fee is required. Therefore, your compliance with my right to access to the courts - is greatly appreciated. Grace. Peace. Blessings. With best regards, I am,


Disposition by Staff member:

You have had no activity on your account since 7/20/12. You can get a print out from the mailroom between the 1st and 5th of each month.

7/22/13



Julie J. Armstrong
100 Broad St. Ste 106
Charleston, SC 29401

2012-CP-10-8250
Petition for Declaratory
Judgment Jury trial
Demanded

Dear Ms. Armstrong,

6-24-13

I am requesting for the final order that was
supposed to have been signed and issued in
Case no. 2012-CP-10-8250. There was a
hearing on May 30, 2013 in front of Circuit
Judge R. Markley Dennis Jr. where my petition
for Declaratory was dismissed. I need the final
order so I can appeal his decision. Thanks for
your time. Grace. Peace. Blessings.

PS: I need the order dismissing
the case with or without prejudice.
Please send it in the enclosed envelope

With kindest regards,



Demetrius J. Small #286866

CC File: Supreme Court

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Demetrius J. Smalls, #286806,

Plaintiff,

Versus

Charleston County Sheriff's Office, Al Cannon, Jr., Charleston County Detention Center, Chief Mitch Lucas and Major John Clark;

Defendants.

) IN THE COURT OF COMMON PLEAS

) NINTH JUDICIAL CIRCUIT

) C/A No. 12-CP-10-8250

ORDER OF DISMISSAL

FILED
2013 JUN 18 AM 8:44
BY JULIE ARMSTRONG
CLERK OF COURT

This matter came before the Court on May 30, 2013, for a hearing on Defendants' Motion to Dismiss. Present at the hearing were the Plaintiff, appearing *pro se*, and G. Wade Cooper, Esq. appearing on behalf of Defendants. Following oral argument from both parties and their counsel, and for the following reasons, the Defendants' Motion to Dismiss is **GRANTED** and this case is ended **with prejudice**.

Plaintiff, a *pro se* inmate in the custody of the South Carolina Department of Corrections (SCDC), filed this action in Charleston County as a petition for declaratory judgment pursuant to SCRCF Rule 57 and S.C. Code Ann. § 30-4-100. Specifically, Plaintiff's petition seeks injunctive relief related to requests sent to Defendants pursuant to the Freedom of Information Act. S.C. Code Ann. §30-4-10, *et seq.* Plaintiff alleges that he and his criminal defense attorney sent requests to Defendants for records related to his incarceration at Charleston County Detention Center as a pre-trial detainee. Plaintiff represented to the Court that his incarceration at the detention center began on January 27, 2005. Plaintiff alleges that Defendants either failed to respond to his FOIA request(s) and/or provided documents pursuant to such requests which were false and misleading. Plaintiff alleges that these documents would have assisted his criminal defense. Plaintiff pled guilty to kidnapping and additional charges on June 26, 2007.

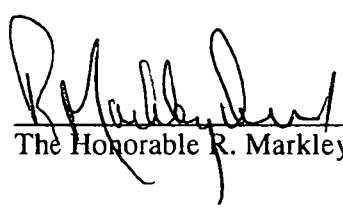
RMD/T/L

Defendants moved pursuant to Rule 12 (b)(6) on the grounds that Plaintiff's Complaint fails to state facts sufficient to constitute a cause of action. Defendants' motion is based on the grounds that, pursuant to the South Carolina Tort Claims Act, Plaintiff's claims are barred by the two year statute of limitations. S.C Code Ann. § 15-78-110. Defendants' additionally assert that Plaintiff's claims are also barred by the one year statute of limitations mandated by S.C. Code § 30-4-100.

Plaintiff filed the instant action for declaratory judgment in Charleston County on December 19, 2012. During the hearing on this matter, Plaintiff represented several times to the Court on the record that his alleged "injury" or "date of loss" related to his FOIA requests to Defendants was on either the date of his initial detention (January 27, 2005) or on the date he pled guilty to his crimes (June 26, 2007). Thus, under either legal theory regarding the statute of limitations applicable to Plaintiffs' claim, the Court finds that Plaintiff failed to timely file this action against these Defendants, and grants Defendants' motion to dismiss.

For the foregoing reasons, Plaintiff's Complaint in this matter is hereby **DISMISSED WITH PREJUDICE**.

IT IS SO ORDERED!


The Honorable R. Markley Dennis, Jr.

June 12, 2013
Charleston, South Carolina

RMD/TJ/12