

STATE OF SOUTH CAROLINA)
COUNTY OF MCCORMICK)

IN THE COURT OF COMMON PLEAS)
ELEVENTH JUDICIAL CIRCUIT)

Bryantavious K. Murray,)

C/A NO. 2018-CP-35-00074)

Plaintiff,)

vs.)

ORDER)

Lt. Geoffrey Rice, Lt. Ronald Cook, Lt.)
James Thompkins, Sgt. Jeremy McCary,)
Major Frank Mursier, Joseph Stevens,)
Leroy Cartledge, Vera Courson, and)
South Carolina Department of)
Corrections,)

RECEIVED

May 28 2024

SC Court of Appeals

Defendants.)
_____)

This matter is before me on Defendant South Carolina Department of Corrections' (hereinafter SCDC) Motion to Dismiss. A hearing was held on this matter on July 17, 2023 at which time Steven M. Pruitt appeared on behalf of Defendant and Plaintiff appeared pro se. For the reasons discussed below, the Court grants Defendant's Motion and dismisses Plaintiff's action.

Plaintiff filed this action alleging employees or agents of Defendant used excessive force against him on April 8, 2016. Plaintiff filed this action on August 28, 2018, but Defendants were not served. On February 1, 2019, the Court mailed Plaintiff a Dormant File Notice in which Plaintiff was instructed to file "an appropriate motion or Affidavit of Service" within 10 days or his action would be dismissed. There is no indication in the Court record that Plaintiff filed a motion or affidavit of service. On February 25, 2019, the Court issued an Order dismissing Plaintiff's action for failing to serve Defendants. Plaintiff then filed a letter and additional materials, including the Complaint, in April 2023. One copy of the Complaint was delivered to the SCDC General Counsel on May 25, 2023 by the Richland County Sheriff's Department.

Defendant moved to dismiss first on the basis that Plaintiff's action was previously dismissed. The Court agrees. As stated above, an Order was issued on February 25, 2019 dismissing Plaintiff's action. As Plaintiff's action has been dismissed by prior Order of the Court. Plaintiff cannot continue to pursue this action and Defendant's Motion to Dismiss is granted.

Defendant also moved to dismiss Plaintiff's action because it is barred by the two-year statute of limitations found in the South Carolina Tort Claims Act. South Carolina Code Ann. §15-78-110 (Supp. 2021). Section 15-78-110 of the South Carolina Code states "[e]xcept as provided for in Section 15-3-40, any action brought pursuant to this chapter is forever barred unless an action is commenced within two years after the date the loss was or should have been discovered" South Carolina Code Ann. §15-78-110 (Supp. 2021). Plaintiff in his Complaint claims that the incident which is the subject of his claim occurred on April 8, 2016. According to Court records, Plaintiff initially filed this action on August 28, 2018, more than four months beyond the two-year statute of limitations. Therefore, Plaintiff's action is barred by the two-year statute of limitations found in the South Carolina Tort Claims Act and is dismissed.

Only Defendant SCDC has appeared in this action and this Motion was filed only on behalf of Defendant SCDC. The Court would note that there is no evidence in the record that the remaining Defendants have been served. The Court finds that the grounds for dismissal discussed above would apply to all Defendants and based on the above, Defendant's Motion to Dismiss is granted and Plaintiff's action is dismissed as to all Defendants.

IT IS SO ORDERED.

The Honorable R. Lawton McIntosh

_____, 2023
McCormick, South Carolina



McCormick Common Pleas

Case Caption: Bryantavious K Murray VS South Carolina Department of Corrections

Case Number: 2018CP3500074

Type: Order/Dismissal

S/R. LAWTON McINTOSH

S/R.LAWTON McINTOSH