

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.)

ANSWER OF DFEENDANT SCDC)
(Jury Trial Demanded))

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.)

TO: BRYANTAVIOUS K. MURRAY AS PRO SE PLAINTIFF:

Defendant South Carolina Department of Corrections (SCDC), subject to and reserving any motions to strike or to dismiss, responds to the Complaint of the Plaintiff and alleges:

FOR A FIRST DEFENSE

1. The Defendant incorporates the allegations of its Answer to the extent not inconsistent herewith.
2. The Defendant would show that it has not been served and Plaintiff's Complaint should, therefore, be dismissed pursuant to Rule 12(b)(5) of the South Carolina Rules of Civil Procedure.

FOR A SECOND DEFENSE

3. The Defendant incorporates the previous allegations of its Answer to the extent not inconsistent herewith.
4. The Defendant has not been served and the action against it should be dismissed for failure to obtain personal service.

FOR A THIRD DEFENSE

5. The Defendant incorporates the previous allegations of its Answer to the extent not inconsistent herewith.

6. The Defendant has not been properly served and this Court lacks jurisdiction over the persons of the Defendant.

FOR A FOURTH DEFENSE

7. The Defendant incorporates the previous allegations of its Answer to the extent not inconsistent herewith.

8. The Defendant would show that the Plaintiff has failed to state a claim upon which relief may be granted and his Complaint should, therefore, be dismissed pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure.

FOR A FIFTH DEFENSE

9. The Defendant incorporates the previous allegations of its Answer to the extent not inconsistent herewith.

10. Defendant denies that improper or excessive force was used against the Plaintiff or that Defendant or employees or agents of Defendant acted improperly in regards to the Plaintiff in any way. Defendant denies that Defendant has taken any improper actions in relation to the Plaintiff. Defendant is not aware of any injuries sustained by the Plaintiff as a result of any action or inaction by the Defendant or employees or agents of Defendant. Defendant denies that any action or inaction of the Defendant caused injury to the Plaintiff. Defendant would also state that Defendant through its employees and agents acted appropriately in their dealings with the Plaintiff and have not been deliberately indifferent to the Plaintiff's needs. The Defendant denies the allegations contained in Plaintiff's Complaint and demands strict proof thereof.

11. The Defendant would specifically state that the Plaintiff is not entitled to the relief requested in his Complaint or to any relief in this matter.

FOR A SIXTH DEFENSE

12. The Defendant incorporates the previous allegations of its Answer to the extent not inconsistent herewith.

13. Defendant pleads the provisions of the South Carolina Tort Claims Act, S.C. Code Ann. § 15-78-10 *et seq.*, including all of the immunities, limitations, and defenses granted or preserved by the Act, including limitations of any recovery and restrictions against recovering punitive damages and attorney's fees.

FOR A SEVENTH DEFENSE

14. Defendant incorporates the previous allegations of the Answer to the extent not inconsistent herewith.

15. Defendant affirmatively pleads and asserts any and all applicable provisions of the South Carolina Tort Claims Act set forth in §15-78-60 of the Code of Laws of South Carolina. Further, Defendant herein pleads and asserts as a complete, absolute, and affirmative defense to the Plaintiff's claims any and all conditions of recovery, statute of limitations, limitations of liability, and above listed exceptions from liability and/or immunities as are set forth in the South Carolina Tort Claims Act.

16. Defendant pleads the South Carolina Tort Claims Act as a complete and absolute bar to any recovery by the Plaintiff from Defendant.

FOR AN EIGHTH DEFENSE

17. Defendant incorporates the previous allegations of the Answer to the extent not inconsistent herewith.

18. Any claim for punitive or exemplary damages against Defendant is barred by the South Carolina Tort Claims Act, in particular §15-78-120 of the Code of Laws of South Carolina.

FOR A NINTH DEFENSE

19. Defendant incorporates the previous allegations of the Answer to the extent not inconsistent herewith.

20. Defendant affirmatively pleads and asserts the provisions of §15-78-120 of the Code of Laws of South Carolina as a defense to the Plaintiff's claim, and further, Defendant herein pleads and asserts the limitation of liability as set forth in §15-78-120 of the Code of Laws of South Carolina as a limitation on the amount and/or type of damages recoverable in this action.

FOR A TENTH DEFENSE

21. Defendant incorporates the previous allegations of the Answer to the extent not inconsistent herewith.

22. Any injury or damage sustained by the Plaintiff as a result of the matters alleged in the Complaint was a proximate result of one or more independent and intervening causes, which Defendant affirmatively pleads as a complete bar to this action.

FOR AN ELEVENTH DEFENSE

23. Defendant incorporates the previous allegations of the Answer to the extent not inconsistent herewith.

24. Any injury or damage sustained by the Plaintiff as a result of the matters alleged in the Complaint was caused by events over which Defendant had no control or right of control, thereby relieving Defendant from any liability or responsibility.

FOR A TWELFTH DEFENSE

25. Defendant incorporates the previous allegations of the Answer to the extent not inconsistent herewith.

26. Defendant, at all times relevant hereto and during the performance or non-performance of the acts alleged in the Complaint, did not perform any acts or fail to perform any acts in bad faith, in a malicious manner, or with corrupt motives and the Defendant is, therefore, immune from suit.

FOR A THIRTEENTH DEFENSE

27. Defendant incorporates the previous allegations of the Answer to the extent not inconsistent herewith.

28. Defendant alleges that if any injuries and damages were sustained by the Plaintiff, said injuries and damages were caused by the greater negligence and/or willfulness of the Plaintiff, which exceeds the negligence and/or willfulness, if any, on the part of this Defendant, without which greater negligence and/or willfulness on the part of the Plaintiff, said alleged injury or damage would not have occurred or been sustained and for that reason, the Plaintiff is totally barred from recovery.

FOR A FOURTEENTH DEFENSE

29. Defendant incorporates the previous allegations of the Answer to the extent not inconsistent herewith.

30. That even assuming Defendant was negligent, grossly negligent, careless, willful, wanton and reckless in any respect and that such conduct operated as a proximate cause of the accident and the Plaintiff's resulting injuries and damages, if any, all of which is expressly denied and admitted solely for the purpose for this defense, Defendant alleges that the Plaintiff's negligent, grossly negligent, reckless, willful, and wanton conduct in the particulars set forth herein and above

contributed to more than 50% to cause the incident and the Plaintiff's resulting injuries and damages, if any. As such, the Plaintiff's cause of action is barred.

FOR A FIFTEENTH DEFENSE

31. Defendant incorporates the previous allegations of the Answer to the extent not inconsistent herewith.

32. Defendant alleges that even if it was careless, negligent, grossly negligent, willful, wanton, or reckless, in any respect, which is expressly denied and admitted solely for the purpose of this defense, and even if such conduct on its part operated as a greater than 50% cause of the accident and the Plaintiff's resulting injuries and damages, if any, which is also expressly denied and admitted solely for the purpose of this defense and no other, Defendant is entitled to a determination as to the percentage which Plaintiff's negligent, grossly negligent, reckless, willful and wanton conduct contributed to this accident and to a reduction of any amount awarded to it by an amount equal to the percentage of Plaintiff's negligent, grossly negligent, reckless, willful and wanton conduct.

FOR A SIXTEENTH DEFENSE

33. Defendant incorporates the previous allegations of the Answer to the extent not inconsistent herewith.

34. Plaintiff has not suffered any damages caused by the actions of Defendant.

FOR A SEVENTEENTH DEFENSE

35. Defendant incorporates the previous allegations of the Answer to the extent not inconsistent herewith.

36. That there was no negligence, gross negligence, recklessness, and/or wantonness on behalf of Defendant which proximately caused the alleged damages referred to in the Plaintiff's

Complaint.

FOR A EIGHTEENTH DEFENSE

37. Defendant incorporates the previous allegations of the Answer to the extent not inconsistent herewith.

38. The individual Defendants are proper parties to this action pursuant to §15-78-70 of the South Carolina Tort Claims Act.

FOR A NINETEENTH DEFENSE

39. Defendant incorporates the previous allegations of the Answer to the extent not inconsistent herewith.

40. Plaintiff's action has been dismissed by Order of the Court and cannot be maintained.

FOR A TWENTIETH DEFENSE

41. The Defendants incorporate the previous allegations of their Answer to the extent not inconsistent herewith.

42. The Defendants state that the Plaintiff's claim is barred by the doctrines of *res judicata* and/or collateral estoppel.

FOR A TWENTY-FIRST DEFENSE

43. The Defendants incorporate the previous allegations of their Answer to the extent not inconsistent herewith.

44. Plaintiff's action is barred by applicable the statute of limitations.

FOR A TWENTY-SECOND DEFENSE

45. The Defendants incorporate the previous allegations of their Answer to the extent not inconsistent herewith.

46. Plaintiff's action is barred by the two-year statute of limitations contained in the South Carolina Tort Claims Act, S.C. Code Ann. § 15-78-10 *et seq.*

FOR A TWENTY-THIRD DEFENSE

47. The Defendants incorporate the previous allegations of their Answer to the extent not inconsistent herewith.

48. Defendant reserves, and specifically does not waive, any and all additional defenses which may become evident through the discovery process or otherwise in this matter; and, in addition, Defendant reserves the right to amend this answer to include additional defenses or withdraw others after the completion of discovery and at other times thereafter, up to and including, during a potential trial.

WHEREFORE, having fully answered the Complaint, Defendant prays that same be dismissed.

McDONALD PATRICK POSTON HEMPHILL & ROPER, LLC

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ATTORNEYS FOR DEFENDANT SCDC

June 12, 2023
Greenwood, South Carolina