

This judgment was entered on , and a y mailed first class or placed in the appropriate orney's box on , to attorneys of record or to parties (when appearing pro se) as follows:

Bryantavious K Murray 4344 Broad River Rd Kirkland Ci
Columbia, SC 29210

South Carolina Department of Corrections

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter

Gwen D. Chiles - Clerk of Court

Court Reporter:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

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.

) DEFENDANT SOUTH CAROLINA
) DEPARTMENT OF CORRECTION'S
) MOTION TO DISMISS

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:

The Defendant, by and through its undersigned attorneys, will move before the presiding Judge for the Court of Common Pleas of McCormick County, McCormick, South Carolina at the McCormick County Courthouse on the tenth day after service thereof, or at such other time and place as the Court may direct that Defendant SCDC should be dismissed on the following grounds:

1. Plaintiff's action was previously dismissed and cannot be maintained.
2. Plaintiff's action is barred by the statute of limitations.
3. The individual Defendants are not proper parties and should be dismissed from this action as a matter of law.

McDONALD PATRICK POSTON HEMPHILL & ROPER, LLC

By: s/ Steven M. Pruitt

Steven M. Pruitt, Esquire, SC Bar #66201
Post Office Box 1547
Greenwood, SC 29648
864-229-2511 spruitt@mcdonaldpatrick.com

**ATTORNEYS FOR DEFENDANT SOUTH CAROLINA
DEPARTMENT OF CORRECTIONS**

June 12, 2023
Greenwood, South Carolina

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.

) DEFENDANT SOUTH CAROLINA
) DEPARTMENT OF CORRECTION'S
) MEMORANDUM IN SUPPORT
) OF ITS MOTION TO DISMISS
)

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,

Defendants.

TO: BRYANTAVIOUS K. MURRAY AS PRO SE PLAINTIFF:

STATEMENT

Plaintiff filed this action alleging employees or agents of Defendant used excessive force against him on April 8, 2016.

ARGUMENT I.
**PLAINTIFF'S ACTION WAS PREVIOUSLY
DISMISSED AND CANNOT BE MAINTAINED.**

According to Court records, Plaintiff filed this action on August 28, 2018. However, Defendant was not served. On February 1, 2019, Plaintiff was provided by the Court a Dormant File Notice. (See Exhibit 1). 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. (See Exhibit 2). The action was dismissed on February 25, 2019 and according to Court records there were no additional filings in the case until April 2023 when Plaintiff filed a letter and additional materials. One copy of the materials was delivered to the SCDC General Counsel on May 25, 2023 by the Richland

County Sheriff's Department.¹ Plaintiff's action has been dismissed by prior Order of the Court. As the action has been dismissed, Plaintiff cannot continue to pursue this action.

ARGUMENT II.
PLAINTIFF'S ACTION IS BARRED BY
THE STATUTE OF LIMITATIONS.

Defendant maintains that Plaintiff's action has been dismissed, but regardless his action is barred by the two-year statute of limitations found in the South Carolinas 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. Therefore, based on Plaintiff's pleadings he filed his case more than four months beyond the two-year statute of limitations. Based on the above, Plaintiff's action is barred by the two-year statute of limitations found in the South Carolina Tort Claims Act.

ARGUMENT III.
THE INDIVIDUAL DEFENDANTS ARE NOT
PROPER PARTIES AND SHOULD BE DISMISSED
FROM THIS ACTION AS A MATTER OF LAW.

The undersigned does not represent the individual Defendants, but would note that they are not proper parties to this action as they were employees of Defendant. The Plaintiff has attempted to initiate this action pursuant to the South Carolina Tort Claims Act. S.C. Code Ann. § 15-78-10 et seq. (Supp. 2022). Under Section 15-78-70 of the South Carolina Tort Claims Act, an individual

¹ There is no indication that this was served on the Attorney General as required by SCRCP Rule 4(d)(5). Furthermore, there is no indication that even an attempt of service has been made on any of the individual Defendants.

suing under this Act must name as a party defendant only the agency or political subdivision of which the employee was acting and is not required to name the employee individually. It further states that if any employee is named, the agency or subdivision for which the employee was acting must be substituted as a party defendant. Id. § 15-78-70 (emphasis added). The Plaintiff cannot maintain any action against the individual Defendants under the South Carolina Tort Claims Act as they are not proper parties to this action.

CONCLUSION

For the arguments set forth above, the Plaintiff's actions against the Defendant should be dismissed as a matter of law.

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**ATTORNEYS FOR DEFENDANT SOUTH CAROLINA
DEPARTMENT OF CORRECTIONS**

June 12, 2023

Greenwood, South Carolina

STATE OF SOUTH CAROLINA)
)
COUNTY OF McCormick)
)
)
)
)
)

IN THE COURT OF COMMON PLEAS

2018CP3500074

DORMANT FILE NOTICE
(No Proof of Service)

Bryantavious K Murray
4344 Broad River Rd
Kirkland Ci
Columbia, SC 29210

FILED
GIVEN TO CLERK
2019 FEB - 1 A 11: 49
McCormick County, SC

Bryantavious K Murray VS South Carolina Department of Corrections

Rule 5(d) of the South Carolina Rules of Civil Procedure states:

Filing. All papers required to be served upon a party except as provided in Rule 26(g)(1), shall be filed with the court within five (5) days after service thereof. The summons and complaint shall be filed before service. Proof of service shall be filed within ten (10) days after service of the summons and complaint. Upon failure to serve the summons and complaint, the action may be dismissed by the court on the court's own initiative or upon application of any party. Upon failure of a party to file other pleadings, motions or papers, the court may permit filing or proceed as though the same had not been served.

Court records indicate that the Summons and Complaint in the above referenced action was filed on August 28, 2018, with the McCormick County Clerk of Court. No proof of service has been filed since that time and the Clerk of Court has requested that this action be dismissed.

Please respond within ten (10) days from the date of this letter with the appropriate motion or Affidavit of Service. This case will be dismissed pursuant to South Carolina Rule of Civil Procedure 5(d) if you do not timely respond. **If you have questions please contact Buffey Hodges, ADR Coordinator, at (864) 852-2195 or by email at bhodges@mccormickcountysc.org.**

Sent to Attorney(s) of Record:

Bryantavious K Murray 4344 Broad River Rd Kirkland Ci Columbia, SC 29210

FORM 4

STATE OF SOUTH CAROLINA
 COUNTY OF MCCORMICK
 IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE
 CASE NUMBER 2018CP3500074

Bryantavious K Murray		South Carolina Department of Corrections	
-----------------------	--	--	--

PLAINTIFF(S)	DEFENDANT(S)
Submitted by:	Attorney for: <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit)
 Rule 43(k), SCRPC (Settled); Other: **Has Not Served Defendants**
- ACTION STRICKEN (CHECK REASON):** Rule 40(j) SCRPC; Bankruptcy;
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other: _____
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other:

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order; (formal order to follow) Statement of Judgment by the Court:

ORDER INFORMATION

This order ends does not end the case.
 Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk.

Note: Title abstractors and researchers should refer to the official court order for judgment details.

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

Circuit Court Judge

Judge Code

Date

For Clerk of Court Office Use Only

8/28/18

ELECTRONICALLY FILED - 2019-Feb 25 11:01 AM - MCCORMICK - COMMON PLEAS - CASE#2018CP3500074
 ELECTRONICALLY FILED - 2023 Jun 12 3:05 PM - MCCORMICK - COMMON PLEAS - CASE#2018CP3500074

This judgment was entered on , and a copy mailed first class or placed in the appropriate attorney's box on , to attorneys of record to parties (when appearing pro se) as follows:

Bryantavious K Murray 4344 Broad River Rd Kirkland Ci
Columbia, SC 29210

South Carolina Department of Corrections

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter

Gwen D. Chiles - Clerk of Court

Court Reporter:

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STATE OF SOUTH CAROLINA)
)
COUNTY OF McCormick)
)
)
)
)

IN THE COURT OF COMMON PLEAS

2018CP3500074

DORMANT FILE NOTICE
(No Proof of Service)

Bryantavious K Murray
4344 Broad River Rd
Kirkland Ci
Columbia, SC 29210

FILED
GIVEN TO BY CHILES
1 2019 FEB - 1 A 11: 49
McCormick County SC

Bryantavious K Murray VS South Carolina Department of Corrections

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Sent to Attorney(s) of Record:

Bryantavious K Murray 4344 Broad River Rd Kirkland Ci Columbia, SC 29210



McCormick Common Pleas

Case Caption: Bryantavious K Murray VS South Carolina Department of Corrections
Case Number: 2018CP3500074
Type: Filing/Other

IT IS SO ORDERED!

s/ Alison Renee Lee, Chief Administrative Judge

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.

) CERTIFICATE OF SERVICE
)

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

Defendants.

The undersigned hereby certifies that the foregoing **DEFENDANT SOUTH CAROLINA DEPARTMENT OF CORRECTION'S MOTION TO DISMISS, MEMORANDUM IN SUPPORT AND SUPPORTING DOCUMENTS** have been served on the Plaintiff via electronic mail and United States Mail with sufficient first-class postage thereon prepaid and addressed as follows:

Bryantavious Murray, #356248
2156 Cresthill Drive
Columbia, SC 29223-4816
MurrayBryantavious@gmail.com

McDONALD PATRICK POSTON HEMPHILL & ROPER, LLC

By: s/Steven M. Pruitt
Steven M. Pruitt, SC Bar #66201
PO Box 1547, Greenwood, SC 29648
864.229-2511 spruitt@mcdonaldpatrick.com
ATTORNEYS FOR DEFENDANT SCDC

June 12, 2023
Greenwood, South Carolina



Richland County Sheriff's Department

MAY 15 2023

AFFIDAVIT OF SERVICE or NON-SERVICE

Date Entered: 05/12/2023
File Number: C202303434
DSS Number: 0
Foreign Case #: 2018CP3574
Court Date: 01/01/1900

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

Date

Plaintiff Bryantavious Murray 2156 Cresthill Dr. Columbia, SC 29223

Defendant(s) General Council 4444 Broad River Rd Columbia, SC 29210

PERSONALLY APPEARED Before Me T. White, duty sworn says that he/she served, or attempted to serve, the following civil paper(s):

Summons & Complaint 1

on the defendant, General Council, as follows:

() By personally handing the process to the defendant at (Street), SC on (Date/Time).

() By handing the process to (Name of Person Served/Relationship) at (Street), SC on (Date/Time), a person of suitable age and discretion then residing in the defendant's usual place of abode.

(X) By handing the process to Marcie Lawrence / SCLC, the registered corporate agent or officer of the company at 4444 Broad River Rd., Columbia, SC on 5-25-23/9:20AM and leaving him/her a copy.

() WAS UNABLE to locate and serve the above process on the defendant, after diligent efforts by checking the City/Telephone Directory, and going to the address given for the defendant, and by questioning persons in the vicinity of the address. THE PROCESS IS RETURNED UNEXECUTED.

() COMMENTS:

Deponent knows the person served to be the defendant and Deponent is not a party to the action. SWORN TO Before me this

25 day of MAY, 2023

T. White 1260 Deputy Sheriff, Richland County

NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES
P.O. Box 143 Columbia, SC 29202

Matthew S. Aul
Notary Public, State of South Carolina
My Commission Expires July 11, 2032

FILED
GWENDOLYN D. CHILE
2023 JUN 14 A 10:24
CLERK OF COURT
McCORMICK COUNTY, SC

RECEIVED
May 28 2024
SC Court of Appeals



Richland County Sheriff's Department

LEON L. LOTT, JR.
Sheriff

Bryantavious Murray
2156 Cresthill Dr.
Columbia, SC 29223

May 26, 2023

Re: General Council

Dear Sir/Madam:

On 5/12/2023, this department received a civil paper from your office. Please find the enclosed Affidavit of Service/Non Service for the above reference case.

I am pleased to be of service and if my Department can assist you in the future, please call upon my Civil Process Division at (803) 576-3151.

Sincerely,

Leon Lott
Richland County Sheriff

FILED
GWENDOLYN D. CHILES
1 2023 JUN 14 A 10:24
CLERK OF COURT
McCORMICK COUNTY, SC

Proof of Service

FILED
GWENDOLYN D. CHILES
2023 JUN 14 A 10:24
CLERK OF COURT
McCORMICK COUNTY, SC

Bryantson S. Murray
2156 Cresthill Drive
Columbia, S.C. 29203

COLUMBIA SC 290
12 JUN 2023 PM 3 L



Chendwyn D. Chiles
133 S Mine Street
Suite 102
McCormick, S.C. 29835

29835-835727



RECEIVED

May 28 2024

SC Court of Appeals

4/19/2021

Dear Clerk of Court Can you please
Send me a copy of my Bryan Harris
Murray vs. South Carolina Department of
Correction excessive force claim lawsuit?
it's a state tort claim case I am
trying to Petite it within a 6 year claim
out of the 2 years tort claim dead line
that I already filed. even tho I voluntarily
dismissed the case in forma pauperis.

Thanks

B. Murray

FILED
GENEVA D. CHILES
APR 22 4 10 22
CLERK OF COURT
SPRINGFIELD COUNTY, SC

rec'd
Murray
8
copies
Bryan
Harris