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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas
C/A No. 2023-CP-40-04408
Daniel Coble, Circuit Judge

Appellate Case No. 2024-001242

Kamarah Reynolds-Hall.. Appellant,

v.

Jammie Robinson, John Dixon, Dominic Hill, Joseph Hunter, Anthony (AJ) Lawson, Javon Benson, Jahmar Brown, Cincere Scott, Jasmine Alexander-Coleman, Holder Properties, University of South Carolina, ...Defendants,

of whom University of South Carolina and Holder Properties, Inc., are .... Respondents,

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INITIAL BRIEF OF RESPONDENT UNIVERSITY OF SOUTH CAROLINA

RILEY POPE & LANEY, LLC

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STATEMENT OF THE ISSUE ON APPEAL

The Trial Court's granting of the motion to dismiss as to Respondent University of South Carolina ("USC") should be affirmed. As set forth herein, Appellant's claims are barred by the applicable statute of limitations, and further, Appellant is not entitled to equitable tolling.

STATEMENT OF THE CASE

On August 22, 2023, Kamarah Reynolds-Hall, a former student and an aspiring athlete at the University of South Carolina ("USC"), filed a complaint *pro se* in the Richland County Court of Common Pleas, naming several individuals, USC, and Holder Properties, Inc. ("Holder") as the defendants. (Compl. p. 1.) Reynolds-Hall alleged that student-athletes Jammie Robinson, John Dixon, Dominic Hill, Joseph Hunter, Anthony Lawson, and Javon Benson, along with several other USC students, formed a mob and assaulted him on USC's property. (Compl. ¶¶ 1–29, pp. 1–4.) According to Reynolds-Hall's allegations, USC engaged in a cover up in order to protect its student athletes. (Compl. ¶¶ 13, 15, 30, 31, pp. 2, 4.) In the documents attached to the Complaint, Plaintiff states that "the video evidence was assembled by the victim father once the Discovery was released 7 months later March 2021." In response to the Complaint, USC filed the subject motion to dismiss and asserted that Appellant's pleading was time-barred as it was filed more than two (2) years after the allegations in the Complaint occurred.

On July 9, 2024, the Honorable Daniel Coble, Circuit Judge, heard USC's based on the statute-of-limitations defense. (Tr. p. 1.) After taking the matter under advisement, Judge Coble granted the motions by a Form 4 Order dated July 15, 2024.

On July 29, 2025, the court issued two formal orders: one dismissing the complaint as to Holder Properties, Inc. (Order); and one granting USC's motion to dismiss. (Ord. Granting USC's Mtn. to Dismiss.) This appeal followed.

STANDARD OF REVIEW

On appeal from the dismissal of a case pursuant to Rule 12(b)(6), an appellate court applies the same standard of review as the circuit court. *Rydde v. Morris*, 381 S.C. 643, 646, 675 S.E.2d 431, 433 (2009). The ruling on a Rule 12(b)(6) motion to dismiss must be based solely upon the allegations set forth on the face of the complaint. *Stiles v. Onorato*, 318 S.C. 297, 300, 457 S.E.2d 601, 602 (1995). A 12(b)(6) motion should not be granted if facts alleged and inferences reasonably deducible therefrom would entitle the plaintiff to any relief on any theory of the case. *Plyler v. Burns*, 373 S.C. 637, 645, 647 S.E.2d 188, 192 (2007).

When reviewing a dismissal for failure to state a claim, an appellate court applies the same standard as the trial court – the pleadings are construed liberally, and all well-pled facts are presumed true. *Doe v. Bishop of Charleston*, 407 S.C. 128, 134, 754 S.E.2d 105, 109 (2013). The court need not, however, presume the truth of the allegations pled merely in conclusory fashion or stating legal conclusions. *HHHunt Corp. v. Town of Lexington*, 389 S.C. 623, 635, 699 S.E.2d 705 (Ct. App. 2010). Under this standard, a claim should be dismissed when the facts alleged in the complaint do not support relief. *Brouwer v. Sisters of Charity Providence Hospital*, 409 S.C. 514, 519, 763 S.E.2d 200, 202 (2014).

ARGUMENT

I. THE TRIAL COURT PROPERLY GRANTED RESPONDENT'S MOTION TO DISMISS BY FINDING THAT APPELLANT'S CLAIMS WERE BARRED BY THE APPLICABLE STATUTE OF LIMITATIONS

As alleged in the Complaint, Appellant's purported claims against Respondent USC arose due to an alleged assault and failure to investigate that occurred on August 23, 2020.

The Tort Claims Act "constitutes the exclusive remedy for any tort committed by an employee of a governmental entity." S.C. Code Ann. § 15-78-70(a). Under the Tort Claims Act,

the statute of limitations for suit against a state agency 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). "The important date under the discovery rule is the date that a plaintiff discovers the injury, not the date of the discovery of the identity of [the] wrongdoer." *Wiggins v. Edwards*, 314 S.C. 126, 128, 442 S.E.2d 169, 170 (1994).

In examining when the statute of limitations began to run, the discovery rule applies. *Young v. South Carolina Dept. of Corrections,* 333 S.C. 714, 718, 511 S.E.2d 413, 415 (Ct. App. 1999) (holding that the discovery rule applies to actions brought under the South Carolina Tort Claims Act).

> According to the discovery rule, the statute of limitations begins to run when a cause of action reasonably ought to have been discovered. The statute runs from the date the injured party knows or should have known by the exercise of reasonable diligence that a cause of action arises from the wrongful conduct.
>
> ....
>
> [T]he injured party must act with some promptness where the facts and circumstances of an injury place a reasonable person of common knowledge and experience on *notice* that a claim against another party might exist. Moreover, the fact that the injured party may not comprehend the full extent of the damage is immaterial.

Id. at 719, 511 S.E.2d at 416 (quoting *Dean v. Ruscon Corp.,* 321 S.C. 360, 364, 468 S.E.2d 645, 647 (1996) (citations omitted) (emphasis in original)). *See also Joubert,* 341 S.C. at 190, 534 S.E.2d at 8 (finding that the statute of limitations under the South Carolina Tort Claims Act begins to run "when the plaintiff should know that he might have a potential claim against

another, not when he develops a full-blown theory of recovery”). The date when the discovery should have been made is an objective question. *Young,* 333 S.C. at 719, 511 S.E.2d at 416.

> “[W]hether the particular plaintiff actually knew he had a claim is not the test. Rather, courts must decide whether the circumstances of the case would put a person of common knowledge and experience on notice that some right of his had been invaded or that some claim against another party might exist.”

Id.

The incident that is the subject of the complaint occurred on August 23, 2020 and even Appellant admits that the “video evidence” was obtained in March of 2021. In his memorandum to deny USC’s motion to dismiss filed on July 5, 2024, Appellant argued that the statute of limitations should be extended due to “Covid-19 Pandemic” and that equitable tolling should be allowed. Appellant clearly knew the cause of loss on August 23, 2020 and the two-year period should begin on that date. *Bayle v. S.C. Dep’t of Trans.*, 344 S.C. 115, 121, 542 S.E.2d 736, 739 (Ct. App. 2001) (the two-year period begins the date of loss regardless of whether plaintiff knew the cause of the loss.). However, even if the March of 2021 date is used, Appellant’s claims against USC are still time-barred.

The Trial Court therefore correctly ruled that Appellant’s claims are barred by the applicable statute of limitations. As such, the Trial Court’s Order granting USC’s motion to dismiss should be affirmed.

II. APPELLANT WAS NOT ENTITLED TO EQUITABLE TOLLING

“[E]quitable tolling is a doctrine that should be used sparingly and only when the interests of justice compel its use.” *Hooper v. Ebenezer Senior Servs. & Rehab. Ctr.*, 386 S.C. 108, 117, 687 S.E.2d 29, 33 (2009). “The party claiming the statute of limitations should be tolled bears the burden of establishing sufficient facts to justify its use.” *Id.* at 115, 687 S.E.2d at 32. “[F]or equitable estoppel to apply, a plaintiff must be aware that a claim might exist prior to

the expiration of the statute of limitations, but due to some conduct or representation by the defendant, the plaintiff is induced ... to delay in filing suit." *Kelly v. Logan, Jolley, & Smith, L.L.P.,* 383 S.C. 626, 639, 682 S.E.2d 1, 8 (Ct. App. 2009).

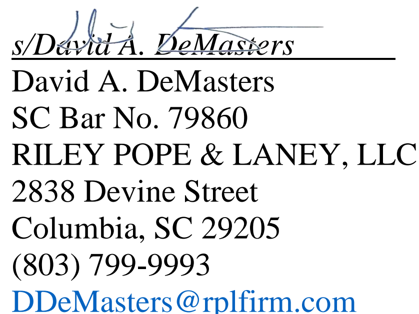
Appellant has not met his burden establishing that equitable tolling is required. There is no evidence of any conduct by USC or any of its employees inducing Appellant to delay filing his lawsuit. As a result, equitable tolling does not apply and the Trial Court's Order granting USC's motion to dismiss should be affirmed.

CONCLUSION

For the foregoing reasons, Respondent USC respectfully requests this Court to affirm the Trial Court's Order granting the motion to dismiss and dismiss this action.

Respectfully submitted,

RILEY POPE & LANEY, LLC



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