

Larry A. White (371303)

Appellate

South Carolina Department of Corrections, Et Al.

Appellee

South Carolina Court of Appeals
Common Pleas Case #: 2024-CP-23-03982

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SC Court of Appeals

Notice of Appeal

Comes Now, Appellate Larry A. White hereby Appeals the order of Granting Summary Judgment in favor of Appellee.

Background

This matter came before the Honorable Patrick C. Fant, III in the Court of Common Pleas, Greenville County, on April 2, 2025. Appellate filed this case June 26, 2024. This case ~~involves~~ involves Appellate being held in solitary confinement for excessive amounts of time even though he has not committed a single disciplinary offense since July 29, 2022. Appellate has been in solitary confinement since 4-17-2018 until this present day with an exception of 7 days spent in a step down program. Appellate was placed back in solitary confinement on April 25, 2022 and has remained there even though he has not had a disciplinary charge since 7-29-2022. It is well established in both case law and scientific and medical research that prolonged solitary confinement poses a substantial risk of serious psychological and physical harm. Several courts have found based on the empirical evidence set forth above that solitary confinement poses an objective risk of serious psychological and emotional harm to inmates. Bryan Stirling who was one of the individual defendants in this civil action was put on notice in 2015 in case Encumaa v. Stirling, 791 F.3d 517 (2015), that prolonged solitary confinement exacts a heavy psychological toll that often continues to plague an inmate's mind even after he is resocialized. Bryan Stirling knows this but still continues to hold Appellate in solitary confinement. On 11-7-2023, while housed at Lee Correctional Institution, Appellate began noticing water leaking from under his sink into his cell. Appellate notified officers that he had a water leak in his cell, and requested for someone to come fix the leak. On 11-9-2023 Appellate wrote an inmate request to maintenance notifying them of the leak. By policy SCDC officials have 45 days to respond to request and often delays responses. Over 45 days passed and no one from maintenance came to fix the leak or responded to the request. SCDC policy ADM-13.07 section 1.1.1 says officers are supposed to perform daily inspections checking for safety hazards and maintenance issues which they have not conducted. On Friday January 12, 2024, Appellate woke up out of his sleep at night to use the restroom. Upon walking to the toilet ~~Appellate~~ in a dark cell, Appellate slipped in a puddle of water, hit his head knocking himself out. After regaining consciousness the next morning Appellate was laying in a puddle of urine and water. SCDC policy OP-22.38 section 18 states correctional officers assigned to Restrictive housing unit will conduct security checks and personally observe each inmate a least twice per hour on an unannounced schedule. At no time shall a security check be more than 40 minutes apart. The time of each security check will be recorded utilizing OATS.

Looking at the OATS scans from the night of 1-12-2024 to the early morning hours of 1-13-2024, correctional officer Clive H. Lopez J.R. only did 4 security check rounds and never observed Appellate laying on his floor. Before being placed in solitary confinement / RHU Appellate was not on any mental health medications but now he takes several medications for PTSD, depression, anxiety, and hallucinations. Appellate now sues SCOC for negligence, gross negligence, negligent supervision, and negligent training.

Argument

The Honorable Patrick C. Font III erred in granting SCOC's motion for summary judgment on Appellate's Negligence, Gross negligence, and Negligent supervision claim. A plaintiff to establish a cause of action for negligence, must prove the following four elements: (1) a duty of care owed by defendant to plaintiff, which shows by his status as a prisoner per South Carolina Constitution Article 12 § 2, SCOC is liable for Stirling, Davis, Patterson, and Anderson's conduct under South Carolina Tort Claims Act. Because Appellate is detained in correctional facilities operated by SCOC, SCOC through its employees Stirling, Davis, Patterson, and Anderson owes him a duty to exercise reasonable care under the circumstances which creates a common law duty of care. (2) Breach of that duty by a negligent act or omission, which Appellate shows by Defendants holding him in solitary confinement for 7 years knowing the harms long term solitary confinement causes, failing to fix a safety hazard that cause Appellate to slip, fall and get hurt. (3) Resulting in damages to the plaintiff, which is disturbances in Appellate's mental health by being in solitary confinement for almost 7 years, and pain to his head and neck from falling due to a safety hazard that should have been fixed in 2 days. (4) Damages proximately resulting from the breach of duty, which shows from Appellate not being on any mental health medications before being placed in solitary confinement but now takes several medications for depression, and schizophrenia, and pain in the head and neck from falling due to water being on the floor in his cell that was complained about for over 45 days.

Gross negligence for which a governmental entity can be liable under the Tort Claims Act, is the intentional, conscious failure to do something which is incumbent upon one to do or the doing of a thing intentionally that one ought not to do. Gross negligence is the failure to exercise even the slightest care. Defendants failing or refusing to fix a complained of safety hazard and holding Appellate in solitary confinement for almost 7 years which poses an excessive risk of suicide is a demonstration of not giving the slightest care. Defendant Bryan Stirling was put on notice in *Encumaa v. Stirling*, 791 F.3d 517 (2015), that prolonged solitary confinement exacts a heavy psychological toll that often continues to plague an inmate's mind even after he is resocialized. The judge erred in granting summary judgment as to this claim. Because Appellate has established a duty of care owed by SCOC, his Gross negligence claim should have proceeded to a jury to determine whether SCOC breached that duty in a grossly negligent manner because gross negligence is a factually controlled concept whose determination best rests with the jury.

Next, whether it's a claim for negligent supervision or failure to train, the key question is whether the employer knew or should have known of the danger the employee posed to others. Defendants Stirling, Davis, Patterson, and Anderson have been in multiple lawsuits for different reasons including holding inmates in solitary confinement for long-term, gross negligence, and deliberate indifference. Therefore, SCOC had or has a duty to supervise Stirling, Davis, Patterson, and Anderson.

Conclusion

Based on the foregoing argument, Appellate requests that the grant of summary judgment to Defendant SCDC be reversed, and this case be remanded back to the court of Common Pleas to set a trial date.

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Respectfully Submitted
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4-30-2025

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Appellate

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Certificate of Service

I Appellate Larry A. White hereby certify that I this date, mailed a copy of my Notice of Appeal from the granting of summary judgment by placing a copy of the same in a institutional mailbox at Perry Correctional Institution addressed as follows:

The South Carolina Court of Appeals
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