

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)
Terrell McCoy,)
)
Plaintiff,)
)
v.)
)
Attorney General Rutledge Johnson,)
Samantha Weidemeir, Burns Wetmore,)
Angela Bunker, Peter McCoy, Lorelle)
Proctor, Rae Wooten, Roger Young,)
Deadra Jefferson,)
)
Defendants,)
)
)
)

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

ORDER

Civil Action Number:
2022-CP-40-6230

This matter came before the Court on December 18, 2024, upon the Defendant Samantha Weidauer’s Motion to Dismiss the Plaintiff’s Amended Complaint.¹ The hearing took place virtually via Webex with The Honorable Daniel Coble presiding. Plaintiff appeared *pro se* and was present at the hearing via Webex. Assistant Attorney General Carly H. Davis appeared on behalf of the Defendant, former Assistant Attorney General Samantha Weidauer.

PROCEDURAL HISTORY

Mr. McCoy filed a Summons and Complaint on November 29, 2022. Mr. McCoy filed an Amended Complaint on December 22, 2022. The Defendant, former Assistant Attorney General Samantha Weidauer filed a Motion to Dismiss Plaintiff’s original Complaint on January 11, 2023. Plaintiff filed a response in opposition to the motion on January 31, 2023. Defendant, former Assistant Attorney General Samantha Weidauer filed a Motion to Dismiss Plaintiff’s Amended

¹ Samantha Weidauer’s name is incorrectly spelled in the caption. The proper spelling is reflected in this Order.

Complaint on February 2, 2023. The parties filed supporting memorandum prior to the hearing. The motion was heard on December 18, 2024.

STANDARD OF REVIEW

Pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure, a defendant may move to dismiss a complaint when the defendant demonstrates that the plaintiff has failed to allege facts sufficient to establish a cause of action. Rule 12(b)(6), SCRPC. *See Williams v. Condon*, 347 S.C. 227, 233, 553 S.E.2d 496, 500 (Ct.App.2001). A ruling on a motion to dismiss pursuant to Rule 12(b)(6) must be based solely on the factual allegations set forth in the complaint, and the court must consider all well-pled allegations as true. *Gressette v. S.C. Elec. & Gas Co.*, 370 S.C. 377, 378–79, 635 S.E.2d 538, 538 (2006); *Disabato v. S.C. Ass'n of Sch. Adm'rs*, 404 S.C. 433, 441, 746 S.E.2d 329, 333 (2013).

ANALYSIS

Specifically, as to Defendant Weidauer, Rule 4(d)(5) of the South Carolina Rules of Civil Procedure provides in pertinent part that a plaintiff seeking to commence an action against a state officer effects service “by delivering a copy of the summons and complaint to such officer or agency and by sending a copy of the summons and complaint by registered or certified mail to the Attorney General at Columbia” Rule 4(d)(5), SCRPC.

In the present case, the plaintiff attempted to initiate his action against former Assistant Attorney General Samantha Weidauer by sending a copy of his Summons and Complaint and subsequent Amended Complaint via First Class mail.² Plaintiff utilized an improper form of service upon former Assistant Attorney General Samantha Weidauer, and Defendant’s Motion to

² In 2018, former Assistant Attorney General Rutledge Johnson passed away. Plaintiff attempted to serve Mr. Johnson via mail to the Office of the Attorney General; however, service was improper and not effected.

Dismiss is granted for insufficiency of service of process pursuant to Rule 12(b)(5) of the South Carolina Rules of Civil Procedure.

Furthermore, pursuant to Rule 5(d) of the South Carolina Rules of Civil Procedure:

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.

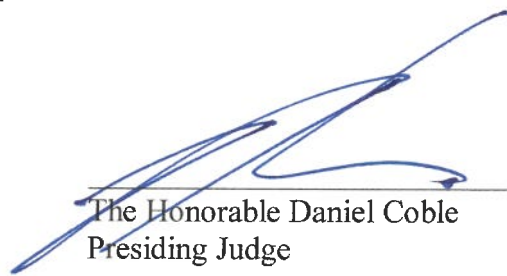
Rule 5(d), SCRCP. Plaintiff failed to properly serve any of the defendants named in this case, and it is therefore dismissed in full pursuant to SCRCP Rule 5(d).

CONCLUSION

For the reasons set forth above and based on the record, arguments presented, and the applicable law, Defendant Weidauer's Motion to Dismiss is hereby GRANTED and this case is DISMISSED in its entirety.

IT IS SO ORDERED.

2/20/25
Date


The Honorable Daniel Coble
Presiding Judge

Richland, South Carolina