

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

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Appeal from Court of Common Pleas  
County of Greenville  
Docket No. 2023-CP-23-02526

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SC Court of Appeals

Reginald Bryd #209137 -- APPELLANT, pro-se

-Vs-

South Carolina Dep't of Corr. -- RESPONDENT,

APPELLATE CASE NO. 2025-00662

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APPELLANT'S BRIEF ON APPEAL

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Appellant, pro-se

TABLE OF CONTENTS

Index,.....i  
Issues Presented,.....ii  
Introduction,.....1  
Procedural History,.....1-2  
Discussion/Relevant Facts,.....2-7  
Conclusion,.....7  
Certificate of Service,.....8

## ISSUES PRESENTED

(I).

Did the Lower Court err in dismissing the matter for lack of subject matter jurisdiction to hear the matter?

(II).

Did the Lower Court err ruling Worker's Compensation Act is the exclusive available remedy to Appellant?

## Introduction

COMES NOW, above captioned Appellant, Reginald Byrd, pro-se, an inmate housed in the South Carolina Department of Corrections (hereafter "SCDC") serving a sentence on an unrelated.

This is an appeal from the denial of a civil tort action filed in Greenville County Court of Common Pleas. Appellant at the lower level was represented by counsel (Aaron Jophlin, Esquire)(herafter "Jophlin"). After the lower Court granted defendant's motion and dismissed the case Mr. Jophlin now no longer represented Appellant and therefore Appellant is proceeding pro-se in this matter; respectfully.

This appeal is as follows:

### Procedural History

The summons and complaint in this matter were filed in Greenville County Court of Common Pleas by Jophlin contending SCDC's gross negligence in the underlying matter.

After numerous administrative hearing and motions matters the case was ultimately to be decided by mediation. Rather than reach mediation Respondents filed a motion to dismiss pursuant to Rule 12(b)(1) and Rule 12(b)(6) of the South Carolina Rules of Civil Procedure and Rule 56, SCRCiv.P. and the motion went before the lower court on March 18, 2025 via WebEx.

The lower court issued very plain one and a quarter page order granting Respondent's motion to dismiss for lack of jurisdiction without considering the underlying genuine issues of material fact in dispute that warrant submitting the case to a jury for resolution. Id.

In granting Respondent's motion the lower Court ruled as follows: "I find pursuant to the applicable case law, S.C. Code §42-1-540 and ;42-1-480 this Court lacks jurisdiction of the

case, and the Worker's Compensation Act is the sole and exclusive remedy for Appellant/Plaintiff in this matter.

## DISCUSSION

### (I).

Did the Lower Court err in dismissing the matter for lack of subject matter jurisdiction to hear the matter?

### (II).

Did the Lower Court err ruling Worker's Compensation Act is the exclusive available remedy to Appellant?

To save the Court's time and the judicial docket Appellant will address these issues together since the facts of one encompasses the other.

### Relevant Facts

Appellant in this matter is an inmate housed in the South Carolina Department of Corrections ("SCDC") serving a 20-life sentence with the possibility of parole on an unrelated matter. Every inmate just as Appellant alike when they into the South Carolina Department of Corrections has to be classified by Statewide Classification, i.e. tested and screened, age, education, health needs etcetera. During that classification every inmate in SCDC is also assigned a prison detail, whether it be cutting grass, painting, working in the kitchen, folding laundry in the commissary, prison barber. But none of those inmates are employees of SCDC, nor are any of us paid an hourly wage, salary and we are not given any benefit for the work we perform. As previously noted "it is prison detail" and it must be

done or go to lock up for refusal to work. Appellant is neither a contractor nor a subcontractor either within the Worker's Compensation Act definitions.

Appellant was being housed at Perry Correctional Institution and on the day in question Perry was on "State Wide Lockdown". Appellant was working in the kitchen assisting in preparing the meals. A disgruntled inmate in a lock down dorm was somehow able to swindle a Lieutenant into opening his cell door and allowing the disgruntled inmate to leave a lock down building, walk across the prison yard enter into the cafeteria where there was no security on duty and the inmate was allowed to walk past the security door pick up an industrial size can open<sup>er</sup> that was not chained down as it should have been and the disgruntled inmate commenced to beating the Appellant repeatedly about the head. The disgruntled inmate was then allowed to walk back across the prison yard by himself unescorted to his dorm and was later taken to lock up.

SCDC's failure to protect and gross negligence is the action the tort was brought under and the lower Court clearly had jurisdiction of the matter. Appellant is not a statutory employee and therefore he is not barred by the exclusivity remedy doctrine of the Worker's Compensation Act.

Subject matter jurisdiction is "the power of a court to hear and determine cases of the general class to which the proceedings in question belong." Sabb, 359 S.C. at 423, 567 S.E.2d at 234; see also Dove v. Gold Kist, Inc., 314 S.C. 235, 238, 442 S.E.2d 598, 600 (1994). Appellant's case squarely sits into general cases which a court of common pleas ordinarily has subject matter jurisdiction to hear. Furthermore, the lower court had jurisdiction to determine whether Appellant was a statutory

employee of SCDC. *Hernandez-Zuniga v. Tickle*, 374 S.C. 235, 252, 647 S.E.2d 691, 699 (Ct.App.2007)("the question of whether a worker is a statutory employee is jurisdictional and is therefore a question of law for the court.") see also *Riden v. Kemet Elec. Corp.*, 313 S.C. 261, 263, 437 S.E.2d 156, 157 (Ct.App.1993). Only [if] a worker is properly classified as a statutory employee, his sole remedy for work-related injuries is to seek relief under the Worker's Compensation Act. *Edens*, 359 S.C. at 445, 597 S.E.2d at 869. The exclusivity provision of the Act applies to "direct" employees and "statutory employees". *Carter v. Florentine Corp.*, 310 S.C. 228, 231, 423 S.E.2d 112, 113 (1992), overruled on other grounds, *Ballenger v. Bowen*, 313 S.C. 476, 443 S.E.2d 379 (1994). Because Appellant is not a statutory employee the lower court has subject matter jurisdiction to hear case.

The Lower Court also erred in application of §42-1-540 and §42-1-480 when it relied on those statutes to grant respondent's motion to dismiss Appellant civil tort. Appellant will address §42-1-480 first: Appellant will show by clear and convincing evidence that §42-1-480 does not apply to Appellant at all and consistently if §42-1-480 does not apply then the Respondent nor the lower Court at liberty to attach it to §42-1-540 to somehow justify some *type* of new merger.

Applying the principles of statutory construction our Court have consistently held:

The cardinal rule of statutory interpretation is a to ascertain the effectuate intent of the legislature. *Hodges v. rainy*, 341 S.C. 79, 85, 533 S.E.2d 587, 581 (2000). When a statute's terms are clear and unambiguous on their face, there is no room for statutory construction and a court must apply the statute according to it's literal meaning. *Univ. S. Cali. v.*

Moran, 365 S.C. 270, 276, 617 S.E.2d 135, 138 (Ct.App.2005).

In the instant matter the Court adopted respondent's erroneous application of §42-1-480 in an attempt to shield themselves from liability by hiding behind §42-1-540.

Clearly §42-1-480 is Coverage for Inmates of SCDC. However, Appellant will submit that this statute does not apply at all. Turning to §42-1-480 in the third paragraph of this statute is clearly states with no mistake the following:

This section shall not apply to patients of the South Carolina Department of Mental Health or those persons who are confined within the jurisdiction of the county prisons, county jails, city jails or overnight lockups or to any inmate who is injured in a fight, riot, recreational activity or "other incidents not directly related to his work assignment." (emphasis supplied and added).

Id §42-1-480.

Appellant did not suffer a work related injury. He was assaulted by another inmate during a State wide institutional lock down and SCDC is liable for the injuries Appellant sustained as a result of SCDC's gross negligence. Clearly the Court of Common pleas had jurisdiction of this matter as this is clearly not a Worker's Compensation claim.

The lower court also erred in relying Davis v. SCDC, 345 S.E.2d 245 (1986). Davis is not applicable and clearly distinguishable from the case at hand. The lower court also erred in relying on Posey v. proper Mold & Eng'g Inc., 378 S.C. 210, 661 S.E.2d 395, 399 (Ct.App.2008). In Posey Tiger transport Service (Tiger) employed Eddie Posey (Eddie) as a truck driver. Eddie owned his own tractor and trailer which he leased to Tiger,

and thus there was a contractor subcontractor relationship which the Court determined Eddie was a "statutory employee" and his exclusive remedy was in Worker's Compensation. The determination of whether a worker is a statutory employee is jurisdictional and therefore the question on appeal is one of law. Harrell v. Pineland Plantation Ltd, 337 S.C. 313, 320, 523 S.E.2d 766, 769 (1999).

Also see Strickland v. Galloway, 348 S.C. 644, 646, 560 S.E.2d 448, 449 (Ct.App.2002)(in circumstances in which South Carolina Worker's Compensation Act covers an employees work-related accident, the Act provides the exclusive remedy against the employer). The exclusive remedy provision of the act precludes an employee from maintaining a tort action against an employer "where the employee sustains work-related injury." Tatum v. Med. University of South Carolina, 346 S.C. 194, 552 S.E.2d 18 (2001). Appellant submits he did not sustain "a work-related" injury. Rather he was physically beat and assaulted by an inmate that was not a work related injury in any sense of the word.

Coverage under the Worker's Compensation Act depends on the existence of an employment relationship. Edens v. Bellini, 359 S.C. 433, 439, 597 S.E.2d 863, 866 (Ct.App.2004). Before provisions of the Worker's Compensation Act can apply, an employer-employee relationship must exist; this is an initial fact to be established. Id.

That can not be established because Appellant is not an employee neither direct nor statutory and the Worker's Compensation Act is not applicable under the unique circumstances and facts of this case. Clearly the lower Court erred in ruling

the Court lacked subject matter jurisdiction on the matter. The matter should be remanded back to the lower court with instructions to place the case back on the roster for a jury trial under gross negligence as was initially requested and demanded.

Respondents cannot find sanctuary under §42-2-540 because §42-1-480 does not apply to the instant matter at hand.

#### CONCLUSION

Based on the above Appellant respectfully prays this Court will rightly conclude that there exists a genuine issue of material fact in dispute that requires a jury determination and this is not "a Workers Compensation claim" or "work related injury." Appellant would respectfully ask this Court to reverse the lower court's ruling and remand the matter for a jury trial, or in the alternative affix the relief deemed just and appropriate in this matter.

DATED: 7/16/2025, 2025

Respectfully Submitted,

/s/ Reginald Byrd

Reginald Byrd #209137

Appellant, pro-se

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CERTIFICATE OF SERVICE

The undersigned hereby certifies he has served a true and correct copy of the enclosed Appellant's Brief and Designated Matter on Appeal on those whose names and addresses appear below by placing below by placing the aforesaid in properly addressed, first-class postage affixed envelopes and placed in the U.S. Mail this 16<sup>th</sup> day of July, 2025.

Those Served

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Respectfully Submitted,

/s/ \_\_\_\_\_  
Reginald Byrd #209137  
Appellant, pro-se

SWORN TO AND SUBSCRIBED BEFORE ME

THIS 16<sup>th</sup> DAY OF July, 2025

NOTARY PUBLIC

My Comm. Expires 8/14/2026

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