

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF HORRY

CIVIL ACTION NO: 2024-CP-26-02217

Barbara Gail Bowick,

Plaintiff,

v.

**ORDER GRANTING DEFENDANT'S
MOTION TO DISMISS**

Carlos Alejandro Gomez,

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Defendant.

AUG 01 2025

SC Court of Appeals

This matter came before the Court on Defendant Carlos Alejandro Gomez's Motion to Dismiss made under the provisions of Rules 3, 12(b)(2), 12(b)(4), 12(b)(5), and 12(b)(6) of the South Carolina Rules of Civil Procedure as well as S.C. Code Ann. §§ 15-3-20(B) and 15-3-530. A hearing was held on November 6, 2024 before the Honorable G.D. Morgan, Jr. Present at the hearing was Attorney Chad W. Fuller for the Plaintiff and Attorney Rogers E. Harrell, III for the Defendant. After considering the motion, oral arguments, and memoranda, Defendant's Motion to Dismiss is hereby GRANTED.

Plaintiff filed suit against this Defendant for injuries allegedly sustained on March 28, 2021. Therefore, the statute of limitation ran March 28, 2024. The Plaintiff filed the original Summons and Complaint on March 28, 2024. More than 120 days have elapsed since the time that original suit was filed, and Defendant Gomez has never been served a copy of that Complaint. Because Plaintiff failed to commence this action within the applicable statute of limitation or within 120 days of filing her Complaint, the claims are hereby dismissed with prejudice. Generally, the statute of limitation for negligence is three years. *See* S.C. Code Ann. § 15-3-530(5) (providing that an action for "assault, battery, or any injury to the person or rights of another, not arising on contract and not enumerated by law" must be commenced within three

years). Rule 3(a)(2) of the South Carolina Rules of Civil Procedure, as amended, states that “(a) civil action is commenced when the Summons and Complaint are filed with the clerk of court if: (1) the summons and complaint are served within the statute of limitations in any manner prescribed by law; or (2) if not served within the statute of limitations, actual service must be accomplished not later than one hundred twenty days after filing.” Further, Section 15-3-20 (B) of the South Carolina Code governs the commencement of actions and provides that “a civil action is commenced when the summons and complaint are filed with the clerk of court if actual service is accomplished within one hundred twenty days after filing.”

Here, the suit was not served within the statute of limitations, which expired on March 28, 2024, and Plaintiff failed to serve the Defendant within the statute of limitations or within 120 days of filing the Summons and Complaint. Therefore, this cause of action was never commenced, and Plaintiff’s claims are barred by the statute of limitation. Plaintiff’s claims are hereby dismissed.

IT IS SO ORDERED.

The Honorable G.D. Morgan, Jr.

_____ day of _____, 2024
Conway, South Carolina



Horry Common Pleas

Case Caption: Barbara Gail Bowick VS Carlos Alejandro Gomez
Case Number: 2024CP2602217
Type: Order/Dismissal

So Ordered

G.D. Morgan Jr.