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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Perry Gravely, Circuit Court Judge

Appellate Case No. 2025-00662
Case No. 2023-CP-23-02526

Reginald Byrd, #209137,

Appellant,

v.

South Carolina Department of Corrections,

Respondent.

INITIAL BRIEF OF RESPONDENT SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

/s/ Charles F. Turner, Jr.
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September 11, 2025

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2. The Circuit Court correctly ruled that the Workers Compensation Act was Appellant's exclusive remedy.

STATEMENT OF THE CASE AND FACTS

Appellant appeals the Order of the Circuit Court dismissing Appellant's Amended Complaint under South Carolina Rules of Civil Procedure Rule 12(b)(1) and 12(b)(6). Appellant brought suit against Respondent, the South Carolina Department of Corrections, for negligence and gross negligence. Appellant's Complaint alleged that, while working in his assigned position as a "senior leader" in the Perry Cafeteria during an institutional lockdown, Appellant was attacked by another inmate, who hit Appellant on the back of the head with an industrial can-opener, causing Appellant to lose consciousness. Appellant alleged negligence on the part of the Respondent, alleging that the South Carolina Department of Correction failed to adequately guard the cafeteria and failed to secure the cafeteria from the inmate assailant.

Respondent filed a motion to dismiss pursuant to Rule 12(b)(1) and 12(b)(6) of the South Carolina Rules of Civil Procedure on March 10, 2025. The Honorable Judge Perry Gravely heard Respondent's Motion on March 18, 2025. During that hearing, Respondent was represented by Russell Harter and Plaintiff was represented by Aaron Seth Jophlin. Counsel for the Respondent argued that Appellant was working for the South Carolina Department of Corrections at the time of his injury and that pursuant to S.C. Code Ann. § 14-1-480, Plaintiff was entitled to benefits under the South Carolina Workers Compensation Act (elsewhere hereinafter, "the Act"). Pursuant to the Act, Counsel for the Respondent argued, Plaintiff was a statutory employee and, thus, the Act provided Plaintiff's sole and exclusive remedy, and that, accordingly, the circuit court lacked subject matter jurisdiction over Plaintiff's claim and that Plaintiff's Complaint failed to state facts sufficient to constitute a cause of action. At the conclusion of the hearing, Judge Gravely granted the Respondent's Motion to Dismiss pursuant to Rule 12(b)(1) of the South Carolina Rules of Civil Procedure. This appeal followed.

STANDARD OF REVIEW

Rule 12(b)(1), SCRCP, allows a court to dismiss an action for lack of subject matter jurisdiction. *Bunkum v. Manor Prop.*, 321 S.C. 95, 99-100, 467 S.E.2d 758, 761 (Ct. App. 1996). "Lack of subject matter jurisdiction may not be waived and should be taken notice of by this Court." *Amisub of South Carolina, Inc. v. Passmore*, 316 S.C. 112, 114, 447 S.E.2d 207, 208 (1994). Subject matter jurisdiction is the "power to hear and determine cases of the general class to which the proceedings in question belong." *Coon v. Coon*, 364 S.C. 563, 566, 614 S.E.2d 616, 617 (2005).

"Under Rule 12(b)(6), SCRCP, a defendant may move to dismiss a complaint based on a failure to state facts sufficient to constitute a cause of action." *Bergstrom v. Palmetto Health Alliance*, 358 S.C. 388, 395, 596 S.E.2d 42 (S.C. 2004). On an appeal from a grant of a trial court order granting a motion to dismiss, the Appellate Court, like the trial court, must consider, "whether the complaint, viewed in the light most favorable to the plaintiff, states any valid claim for relief." *Bergstrom*, 358 S.C. at 395. "On appeal from granting a Rule 12(b)(6) motion, the reviewing court may not consider matters outside the pleadings; well pleaded facts are admitted, but inferences drawn by the plaintiff from such facts and conclusions of law are not admitted." *Jensen v. South Carolina Dep't of Social Services*, 297 S.C. 323, 326, 104 S.E. 2d 102, 104 (S.C. App. 1987). Additionally, a previous ruling, if Appellant has failed to move to alter or amend or appeal that ruling, serves as "the law of the case." *Hotel & Motel Holdings, LLC v. BJC Enters.*, *LLC*, 414 S.C. 635, 659, 780 S.E. 2d 263, 276 (Ct. App. 2015) (See *Carolina Chloride, Inc. v. Richland Cty.*, 394 S.C. 154, 171-72, 714 S.E. 2d 869, 878 (S.C. 2011) (explaining that an unchallenged ruling, right or wrong, becomes the law of the case)).

Under Rule 220(b)(2) of the South Carolina Appellate Court Rules, the Court of Appeals "need not address a point that is manifestly without merit." *SCACR* 220(b)(2) (*see* S.C. Code Ann. §14-8-250 ("the court need not address a point which is manifestly without merit")).

ARGUMENT

1. The Circuit Court correctly ruled that Appellant was an employee of the South Carolina Department of Corrections under the South Carolina Workers Compensation Act.

"The Workers' Compensation Act is a comprehensive scheme created to provide compensation to employees injured by accidents arising out of and in the course of their employment." *Machin v. Carus Corp.*, 419 S.C. 527, 533, 799 S.E.2d 468 (2017) (citing *Parker v. Williams & Madjanik, Inc.*, 275 S.C. 65, 69-70, 267 S.E.2d 524, 526 (1980)). Coverage under the Workers' 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). Whether or not an employer-employee relationship exists is a jurisdictional question. *Nelson v. Yellow Cab Co.,* 349 S.C. 589, 594, 564 S.E.2d 110, 113 (2002); *S.C. Workers' Comp. Comm'n v. Ray Covington Realtors, Inc.*, 318 S.C. 546, 548, 459 S.E.2d 302, 303 (1995).

Appellant first argues that he was not an employee of Respondent and that, accordingly, his injury does not fall under the Workers Compensation Act. "The determination of whether a worker is a statutory employee is jurisdictional and, therefore, the question on appeal is one of law." *Posey v. Proper Mold & Eng'g, Inc.*, 378 S.C. 210, 216, 661 S.E.2d 395, 398 (Ct. App. 2008) (*citing Harrell v. Pineland Plantation, Ltd.*, 337 S.C. 313, 320, 523 S.E.2d 766, 769 (1999); *Glass v. Dow Chem. Co.*, 325 S.C. 198, 201-02, 482 S.E.2d 49, 51 (1997)). "As a result, this court has the power and duty to review the entire record and decide the jurisdictional facts in accord with its view of the preponderance of the evidence." *Posey*, 378 S.C. at 216, 661 S.E.2d at 399 (*citing Harrell*, 337 S.C. at 320, 523 S.E.2d at 769; *Glass*, 325 S.C. at 202, 482 S.E.2d at 51; *see also Bridges v. Wyandotte Worsted Co.*, 243 S.C. 1, 132 S.E.2d 18 (1963), overruled in part on other grounds, *Sabb v. S.C. State Univ.*, 350 S.C. 416, 567 S.E.2d 231 (2002) (holding the existence

or absence of an employment relationship is a jurisdictional fact which the court must determine based on its review of all the evidence in the record)). "Where the issue involves jurisdiction, the appellate court can take its own view of the preponderance of the evidence." *Posey*, 378 S.C. at 216-217 (*citing Nelson v. Yellow Cab Co.*, 349 S.C. 589, 594, 564 S.E.2d 110, 112 (2010)). Finally, "[i]t is the policy of South Carolina courts to resolve jurisdictional doubts in favor of the inclusion of employers and employees under the Workers' Compensation Act." *Posey*, 378 S.C. at 217, 661 S.E.2d at 399 (*citing Dawkins v. Jordan*, 341 S.C. 434, 439, 534 S.E.2d 700, 703 (2000)).

In arguing that he was not an employee of Respondent, Appellant advances three arguments: first, Plaintiff argues that his position in the cafeteria was unpaid and that he accrued no benefit from the work assignment; second, Appellant argues that he was not an employee where S.C. Code Ann. § 42-1-480 excepts fights from the Workers Compensation Act's inclusion of inmates of the South Carolina Department of Corrections as employees; and, third, Appellant argues that, likewise, he was not an employee where S.C. Code Ann. § 42-1-480 excepts incidents not directly related to an inmate's work assignment from the Workers Compensation Act's inclusion of inmates of the South Carolina Department of Corrections as employees.

Section 42-1-480 of the South Carolina Code of Laws, Annotated, clearly establishes that inmates working in an assigned work assignment with the South Carolina Department of Corrections are employees for the purpose of the Workers Compensation Act. That Section reads, in relevant part,

> Any inmate of the State Department of Corrections, as defined in this section, in the performance of his work in connection with the maintenance of the institution, any department vocational training program, or with any industry maintained therein, or with any highway or public works activity outside the institution, who suffers an injury for which compensation is specifically prescribed in this title, may, upon being released from such institution either upon parole or upon final discharge, be awarded and paid compensation under the provisions of this title.

S.C. Code Ann. § 42-1-480. That section goes on to define an "inmate," as, "any person sentenced to the South Carolina Department of Corrections and who is then in the jurisdiction of the department." *Id*. "The primary rule of statutory construction is 'to ascertain and effectuate the intent of the legislature.' *State v. Taylor*, 436 S.C. 28, 34, 870 S.E.2d 168, 171 (2022) (*quoting State v. Pittman*, 373 S.C. 527, 561, 647 S.E.2d 144, 161 (2007)). "A statute's language must be construed in light of its intended purpose, and '[w]henever possible, legislative intent should be found in the plain language of the statute itself.'" *Taylor*, 436 S.C. at 34 (*quoting State v. Gaines*, 380 S.C. 23, 33, 667 S.E.2d 728, 733 (2008)). "The Court should give words 'their plain and ordinary meaning without resort to subtle or forced construction to limit or expand the statute's operation.'" *State v. Sweat*, 386 S.C. 339, 350, 688 S.E.2d 569, 575 (2010) (*quoting Sloan v. S.C. Bd. of Physical Therapy Exam'rs*, 370 S.C. 452, 469, 636 S.E.2d 598, 607 (2006)). According to the plain language of section 42-1-480, Appellant then was clearly an employee for the purposes of the Workers Compensation Act; Appellant's argument that he was unpaid is likewise unpersuasive, where the Workers Compensation Act, later, statutorily establishes the wage for inmates of the South Carolina Department of Corrections for the purposes of the Act. Section 42-7-65 of the Act establishes that, "[t]he average weekly wage for inmates of the State Department of Corrections as defined in Section 42-1-480 is forty dollars a week." S.C. Code Ann. § 42-7-65. Accordingly, it was the clear intent of the legislature to place inmates working within their department work assignment under the Act. The Act itself establishes their pay scale, which lets alone the ancillary benefits of a work assignment on an inmate's record, as noted by the Court at the hearing of Respondent's Motion to Dismiss. *Transcript*, p. 11. The Supreme Court has recognized that inmates in their work assignment are employees for the purpose of workers compensation under Section 42-1-480. *Davis v. South Carolina Dep't of Corrections*, 289 S.C.

123, 124, 345 S.E.2d 245, 245 (1986). Appellant's argument that he was not an employee, then, is unavailing and counter to the relevant statutory authority.

Appellant next argues that Section 42-1-480 does not apply to him, where he was injured in a fight. Section 42-1-480 states, in relevant part,

> 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 injured in a fight, riot, recreational activity or other incidents not directly related to his work assignment.

S.C. Code Ann. § 42-1-480. Appellant, however, has not alleged that his injuries occurred during a fight; rather, Appellant alleges that his injuries were suffered when he was attacked by a fellow inmate. "It is a general rule that a party is concluded by his own testimony which is favorable to the adverse party." *Elrod v. All*, 243 S.C. 425, 436, 134 S.E.2d 410, 416 (1964). Appellant's Complaint alleges that, while he was working in the kitchen, "Inmate Shaw grabbed an industrial type can opener from the cutting table and proceeded to strike Plaintiff in the back of the head. . . Plaintiff lost consciousness due to the assault." *Complaint*, p. 3. Such an unprovoked, sudden attack does not constitute a "fight," under its plain meaning. Black's Law Dictionary defines a "fight," as follows: "Hostile encounter; either physical or verbal in nature. To oppose or attempt to prevent combat or battle, as hostile encounter or engagement between opposing forces, suggesting primarily the notion of a brawl or unpremeditated encounter, or that of a pugilistic combat." *Fight*, Black's Law Dictionary, 5th Edition (1979). In Appellant's case, there was no such brawl or pugilistic combat; indeed, there were not even such opposing forces as the word "fight" entails; Appellant was merely standing by performing his work in the kitchen when he was struck by another inmate. Respondent would note the consistency of this interpretation with Section 42-1-480 itself, which excepts as well as injuries resulting from riots and from recreational activity,

both of which, like a fight, imply mutual and voluntary involvement. Accordingly, Appellant should not be excepted from Section 42-1-480's inclusion of inmates in the Workers Compensation Act.

Finally, mirroring his argument that his injury resulted from a fight, Appellant argues that his injury was not related to his work under Section 42-1-480. As noted, *supra*, Section 42-1-480 excepts from its grant of coverage inmates injured in, "other incidents not directly related to his work assignment." Appellant has maintained throughout his suit and this appeal that he was working in the kitchen pursuant to his work assignment when he was injured. That alone, as argued *supra*, brings him under the definition of an employee under South Carolina law. That the Appellant's assailant did not work in the kitchen, and that Appellant was attacked by a third party rather than by injuring himself on a kitchen implement is of no import. Other cases have found similar injuries, those perhaps unusual or unexpected given the nature of an employee's work, consistent with the grant of Workers Compensation. In *Doe v. South Carolina State Hospital*, the South Carolina Court of Appeals addressed the application the Workers Compensation Act to such an injury. *Doe v. South Carolina State Hospital*, 285 S.C. 183, 185, 328 S.E.2d 652, 654 (1985). In that case, Plaintiff Appellant was an employee of the South Carolina Department of Mental Health working as a nursing supervisor at the South Carolina State Hospital at the time of her injury. *Doe v. South Carolina State Hospital*, 285 S.C. at 185, 328 S.E.2d at 654. She brought a tort action against her employer, alleging that "agents and employees of the hospital were negligent in allowing a mental patient to escape and later rape her while she was on duty." *Id*. The Court of Appeals found that her injuries were related to her work, finding,

> When there is apparent to the rational mind upon consideration of all the circumstances, a causal connection between the conditions under which the work is required to be performed and the resulting injury. . . If the injury followed as a natural incident of the work and would have been contemplated by a reasonable

> person familiar with the whole situation as a result of the exposure occasioned by the nature of the employment, then it arises "out of" the employment.

Id. at 655 (*citing Carter v. Penney Tire & Recapping Co.*, 261 S.C. 341, 200 S.E.2d 64, 65 (1973), *quoting Bridges v. Elite, Inc.*, 212 S.C. 514, 519, 48 S.E.2d 497, 498-499 (1948)). The Court ruled further, "Where an employee is assaulted by a third person, the assault arises out of the employment. . . if the risk of assault is increased because of the nature of [the] setting of the work." *Id*. Appellant has maintained that his injury occurred while he was working and because the assailant inmate was allowed into the kitchen in which Appellant was working. Accordingly, Appellant's injury clearly falls under Section 42-1-480, and the circuit court correctly found that an employee-employer relationship existed.

2. The Circuit Court Correctly Ruled that the Workers Compensation Act was Appellant's Exclusive Remedy.

The Workers Compensation Act, "was designed to supplant tort law by providing a no-fault system focusing on quick recovery, relatively ascertainable awards, and limited litigation." *Nicholson v. S.C. Dep't of Soc. Servs.*, 411 S.C. 381, 389, 769 S.E.2d 1, 5 (2015) (*citing Wigfall v. Tideland Utils., Inc.*, 354 S.C. 100, 115, 580 S.E.2d 100, 107 (2003)). Indeed, the Act was intended from its inception to supplant and replace theories of tort liability as between an employer and an employee, in a mutually beneficial system wherein, "the employee receives the right to swift and sure compensation; the employer receives immunity from tort actions by the employee." *Parker*, 275 S.C. at 69-70, 267 S.E.2d at 526. Since its inception, the South Carolina Supreme Court has recognized that "[t]his quid pro quo approach to [workers'] compensation has worked to the advantage of society as well as the employee and employer." *Id*.

Accordingly, the Supreme Court of the State of South Carolina has recognized, repeatedly, that the Workers' Compensation Act is the exclusive remedy against an employer for an employee's

work-related accident or injury. *Poch v. Bayshore Concrete Prods./South Carolina, Inc.,* 405 S.C. 359, 747 S.E.2d 757 (2013). "The exclusivity provision of the Act precludes an employee from maintaining a tort action against an employer where the employee sustains a work-related injury." *Edens v. Bellini*, 359 S.C. 433, 441, 597 S.E.2d 863, 867 (S.C. App. 2004). This exclusivity provision states:

> The rights and remedies granted by this Title to an employee when he and his employer have accepted the provisions of this Title, respectively, to pay and accept compensation on account of personal injury or death by accident, **shall exclude all other rights and remedies** of such employee, his personal representative, parents, dependents or next of kin as against his employer, at common law or otherwise, on account of such injury, loss of service or death. Provided, however, this limitation of actions shall not apply to injuries resulting from acts of a subcontractor of the employer or his employees or bar actions by an employee of one subcontractor against another subcontractor or his employees when both subcontractors are hired by a common employer.

S.C. Code Ann. § 42-1-540 (1985) (emphasis added).

This section of the Act clearly establishes the exclusivity provision, disallowing tort suits against the employer and limiting the injured employee's rights and remedies to those provided by the Act. *Mendenall v. Anderson Hardwood Floors, LLC*, 401 S.C. 558, 562, 738 S.E.2d 251, 253 (2013). Much is gained from this statutory scheme by both parties. The South Carolina Supreme Court has noted that,

> The concept of workers' compensation is 'founded upon recognition of the advisability, from the standpoint of society as well as of employer and employee, of discarding the common law idea of tort liability in the employer-employee relationship and of substituting therefor the principle of liability on the part of the employer, regardless of fault, to compensate the employee, in predetermined amounts based upon his wages, for loss of earnings resulting from an injury arising out of an in the course of employment.

Machin, 419 S.C. at 534 (citing *Parker*, 275 S.C. at 69-70, 267 S.E.2d at 526, *quoting Case v. Hermitage Cotton Mills*, 236 S.C. 515, 530-31, 115 S.E.2d 57, 66 (1960))

In *Doe v. South Carolina State Hospital*, the South Carolina Court of Appeals addressed

the application of the exclusivity. *Doe*, 285 S.C. at 185, 328 S.E.2d at 654. The Court of Appeals first noted that the exclusivity provision of S. C. Code Ann. § 42-1-540, "is intended to bar all actions against an employer where a personal injury to an employee comes within the Act. It thus makes the Act the exclusive means of settling all such claims." *Id*.

Appellant argues that the Circuit Court wrongly concluded that it lacked subject matter jurisdiction to hear Plaintiff's claim where the Court found that Appellant's claims were subject to the exclusive remedy doctrine under the Workers Compensation Act based on the finding that Appellant was an employee of the South Carolina Department of Corrections. "If a worker is properly classified as a statutory employee, his sole remedy for work-related injuries is to seek relief under the Workers' Compensation Act." *Posey*, 378 S.C. at 223, 661 S.E.2d at 402 (*citing Edens*, 359 S.C. at 445, 597 S.E.2d at 869; *Hancock v. Wal-Mart Stores, Inc.*, 355 S.C. 168, 173, 584 S.E.2d 398, 400 (Ct. App. 2003)). A statutory employee may not maintain a negligence cause of action against his direct employer or his statutory employer. *Posey*, 378 S.C. at 223, 661 S.E.2d 402 (*citing Edens,* 359 S.C. at 445, 597 S.E.2d at 869; *Neese v. Michelin Tire Corp.*, 324 S.C. 465, 478, 478 S.E.2d 91, 98 (Ct. App. 1996), *overruled on other grounds*, *Abbott v. The Limited, Inc.,* 338 S.C. 161, 526 S.E.2d 513 (2000)).

In *Posey v. Proper Mold & Eng'g, Inc.* the South Carolina Court of Appeals addressed an argument identical to Appellant's. In that case, the circuit court granted Defendant's Motion to Dismiss under 12(b)(1) of the South Carolina Rules of Civil Procedure based on the circuit court's finding that an employee-employer relationship existed and that, accordingly, the court thereafter lacked subject matter jurisdiction to hear Plaintiff's claims pursuant to the exclusive remedy doctrine. *Posey*, 378 S.C. at 223-224, 661 S.E.2d at 402-403. The Court of Appeals affirmed the circuit court's ruling, finding that the circuit court's original subject matter jurisdiction was

divested after it determined that the Plaintiff was the Defendant's statutory employee. *Posey*, 378 S.C. 210, 224, 661 S.E.2d at 403.

In the present case, the circuit court, having found that Appellant was an employee of the Department of Corrections, likewise found that Appellant's claims fell under the Workers Compensation Act; that finding having been made, the Court granted Respondent's motion to dismiss pursuant to Rule 12(b)(1) of the South Carolina Rules of Civil Procedure, based on the exclusive remedy doctrine. The circuit court was correct in its finding that Appellant was an employee of the South Carolina Department of Corrections and, thusly, correct in its determination that it thereafter was divested of subject-matter jurisdiction over Appellant's claims; accordingly, Appellant's appeal should be dismissed.

CONCLUSION

Based on the foregoing discussion and analysis, the Respondent respectfully requests that the Court affirm the Order of the Circuit Court Judge Perry Gravely's Order dismissing Appellant's case with prejudice.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Nathan Ozmint, hereby certify that on September 11, 2025, I served Appellant Reginald Byrd with copies of Respondent South Carolina Department of Corrections' Initial Brief and Designation of Matter by mailing copies of the same to the following address:

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(Signature page to follow)

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