

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

RECEIVED

OCT 17 2025

SC Court of Appeals

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

REC

OCT 17

SC Court of Appeals

REGINALD BYRD #209137 -- APPELLANT, pro-se,

v.

SOUTH CAROLINA DEP'T OF CORR. -- RESPONDENT,

APPELLATE CASE NO. 2025-000662

APPELLANT'S DESIGNATED MATTER OF RECORD

ON APPEAL

Other Counsel of Record:

Mr. James Nathan Ozmint, Esq.
325 Rocky Slope Road
Suite 201
Greenville, SC. 29607

Mr. Charles Franklin Turner, Jr. Esq.
325 Rocky Slope Road
Suite 201
Greenville, SC. 29607

Appellant, pro-se,

Reginald Byrd #209137
Tyger River Corr. Inst.
200 Prison Rd.
Enoree, SC. 29335

SWORN TO AND SUBSCRIBED BEFORE ME

THIS 10th DAY OF Oct, 2025

[Signature]
NOTARY PUBLIC

MY COMM. EXPIRES 4/14/26



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SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INCIDENT REPORT

101

2/1/19 (2/21)

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Institution/Center: <u>Perry Correctional Institute</u>		Date of Report: <u>1/24/19</u>	
Reporting Official (Full Name): <u>Richard Gillespie</u>		Time of Report: <u>App. 9^{am}</u>	
Employee ID #: <u>057010</u>		Date of Incident: <u>1/24/19</u>	
Location of Incident: <u>Cafeteria</u>		Time of Incident: <u>App. 9⁰⁰ am</u>	
Inmate(s)/Resident: SCDC#	Age:	Sex:	Race:
Employee(s)/Witnesses Involved:			

1. Shaw, Leroy 301480	1. FSS III Gillespie
2. Brice, Leroy 111021	2. Lt. Blakeley
3. McLain Steven 140830	3. Sgt. Moore
4. Byrd, Reginald 209137	4.
5.	5.

On the above date and approximate time:
 At app. 9⁰⁰ am inmate McLain Steven # 140830 came to FSS III Gillespie in the office saying that inmate Shaw, Leroy # 301480 had hit inmate Byrd, Reginald # 209137 on the head & that he was bleed on the floor. I went out to the dining room area to find out what happened & found inmate Byrd on the floor bleed from his head & officers starting to come over to help him & call for help from medical. I turned back toward to the kitchen & spotted inmate Shaw swinging the can opener at inmate Brice in the store room. I went back to get him to stop & received the can opener from inmate Shaw. I escorted him out of the kitchen & told Sgt. Moore and Lt. Blakeley that inmate Shaw was the one that the can oper that hit inmate Byrd & was swinging at inmate Brice in the kitchen at dry store room.

Signature: Richard Gillespie Title: FSS III

Evidence: **FILED**

Disposition of Evidence:

Supervisor's Comments: <p align="center">APR 08 2024</p> <p align="center">Tyger River Lower Yard Classification</p> Printed Name: <u>D. Wessinger</u> Signature: <u>D. Wessinger</u> Title: _____ Date/Time: <u>1-24-19 11:Am</u> Major/Responsible Authority: <p align="center">857 <u>ASSAULT & BATTERY</u> <u>WITH INTENT TO KILL OR INJURE</u></p> Printed Name: _____ Signature: <u>[Signature]</u> Title: <u>Major</u> Date/Time: <u>1/25/19</u>	STG Related - Refer to STG Committee () Yes (<input checked="" type="checkbox"/>) No () Unknown This incident is DRUG related () Yes (<input checked="" type="checkbox"/>) No () Unknown Responsible Authority Action Taken () Informal Resolution () Administrative Resolution (<input checked="" type="checkbox"/>) Refer to Disciplinary Hearing
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STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
COUNTY OF GEORGETOWN)	CASE NO.: 2021-CP-23-
)	
Reginald Byrd,)	
)	
)	<i>Plaintiff,</i>
)	
vs.)	COMPLAINT
)	Jury Trial Requested
)	
South Carolina Department of Corrections,)	
)	
)	<i>Defendant.</i>

The Plaintiff above-named, complaining of the Defendant herein, would respectfully show unto this Honorable Court and allege as follows:

PARTIES

1. The Plaintiff is a citizen and resident of the State of South Carolina and is currently an inmate in the South Carolina Department of Corrections (inmate number 00209137), presently housed at Perry Correctional Institution in Pelzer, South Carolina.

2. The Defendant, South Carolina Department of Corrections (hereinafter referred to as "SCDC"), is a governmental agency/entity existing under the laws of the State of South Carolina and has facilities located throughout the State, and more particularly, in Greenville County, South Carolina (where Perry Correctional Institution is located). At all times hereinafter mentioned in this lawsuit, the Defendant SCDC acted and carried on their business by and through their agents, servants and/or employees at its various locations, to include, but not limited to, Perry Correctional Institution.

3. Plaintiff is informed and believes that venue is proper in Greenville County as a substantial portion of the actions and/or occurrences took place in Greenville County.

FACTUAL ALLEGATIONS

4. On or around December 17, 1993, Plaintiff was placed in the care and custody of the South Carolina Department of Corrections and was housed in various locations throughout the State. Thereafter, he was ultimately transferred to Perry Correctional Institution where he remains to this present day.

5. The Plaintiff is informed and believes that prior to the events in question, Perry Correctional Institution (as a level three (3) Correctional Institution) had a long history of overcrowding and failing to provide adequate security and supervision over the inmates located at the facility.

6. Upon information and belief, prior to and during the time period in question, SCDC policy and procedure required direct supervision of all inmates located within the Perry Correctional Institution. This required there to be at least one (1) correctional officer to be present on the yard, each location where inmates were located, and in each wing of each unit 24 hours a day.

7. Additionally, prior to and during the time period in question, SCDC policy and procedure required that the unit doors, sally-port doors and cell doors be locked at all times. Prior to and during the time period in question, this was typically not done in conscious violation of the SCDC policy and procedure.

8. Additionally, unit/dorm doors are supposed to remain locked at all times (other than for controlled movements) with a correctional officer present to ensure that inmates remain in the wing to which they are assigned. Prior to and during the time period in question this was not being done in conscious violation of SCDC policy and procedure.

9. During the month of January 2019, the Plaintiff was a "senior leader" working in the Perry cafeteria. On or about January 24, 2019, during the morning hours, Plaintiff was working in the cafeteria, as assigned. Upon information and belief, Perry Corr. Inst. was on lockdown due to inclement weather conditions and reduced number of staff.

10. Upon information and belief, the correctional officer assigned to supervise the cafeteria, Lt. D. Wessinger, left her post inside the cafeteria and walked to an office located outside the cafeteria. It was during this time that Lt. Wessinger left her post that another inmate, Leroy Shaw, entered the cafeteria and moved to the kitchen area where Plaintiff was working.

11. Upon information and belief, the doors separating the kitchen from the general dining area were supposed to be locked but were unlocked on the morning of January 24, 2019.

12. Inmate Shaw grabbed an industrial type can opener from the cutting table and proceeded to strike Plaintiff in the back of head, causing injury to his head and/or body. Plaintiff lost consciousness due to the assault.

13. Upon information and belief, the can opener is supposed to be secured to the table it is on but was not on this day.

14. As a result of the lack of security and attack by Inmate Shaw, Plaintiff was injured and was transported to a local hospital for treatment where he was diagnosed and treated for head laceration and subarachnoid bleed.

FOR A FIRST CAUSE OF ACTION
(NEGLIGENCE/GROSS NEGLIGENCE)

15. The Plaintiff reiterates each and every previous relevant allegation as if repeated verbatim herein.

16. The above set forth incidents and the Plaintiff's resulting injuries and damages were proximately caused by the negligent, grossly negligent, reckless, and willful and wanton acts of the Defendant in the following particulars:

- a. In allowing gross overcrowding at the Perry Correctional Institution;
- b. In failing to provide the appropriate number of correctional staff at the various locations in Perry Correctional Institution;
- c. In failing to provide adequate and appropriate security officers at the Perry Correctional Institution;
- d. In failing to properly monitor the inmates, to include Plaintiff and Inmate Shaw, at Perry Correctional Institution;
- e. In failing to properly train, monitor and supervise its personnel, agents and/or employees so as to ensure the safety of the inmates located at Perry Correctional Institution;
- f. In failing to have appropriate policies and protocols in place to provide for the safety and well-being of the inmate population at Perry Correctional Institution and, if such policies exists, in failing to follow same;
- g. In failing to follow and adhere to the policies and protocols of SCDC;
- h. In failing to protect Plaintiff;
- i. In failing to provide security in the cafeteria of Perry Correctional Institution;
- j. In failing to provide proper medical care and treatment for Plaintiff.

17. As a direct result of the Defendant's negligent, grossly negligent, reckless, willful and wanton conduct, Plaintiff was severely injured, suffered needlessly, incurred medical expenses, incurred permanent scarring, and incurred permanent impairment and disability.

WHEREFORE, Plaintiff prays for judgment against the Defendant, for an award of actual and consequential damages, the costs of this action, and for such other and further relief as this Court deems just and proper.

January 13, 2021

s/Aaron S. Joplin

Aaron S. Joplin, SC Bar #10114

The Joplin Law Firm

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ATTORNEY FOR THE PLAINTIFF

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF GREENVILLE

C.A. NO.: 2021-CP-23-00179

Reginald Byrd

Plaintiff,

ANSWER OF DEFENDANT

-vs-

[JURY TRIAL REQUESTED]

South Carolina Department of
Corrections,

Defendant.

The Defendant, South Carolina Department of Corrections (hereinafter "SCDC") by way of Answer to the Plaintiff's Complaint would respectfully show unto the court as follows:

FOR A FIRST DEFENSE

1. That except as is expressly admitted, modified or explained herein, each and every allegation of the Plaintiff's Complaint is denied and strict proof thereof is demanded.

2. That as to the allegations of paragraph 1 of the Plaintiff's Complaint, it is admitted, upon information and belief, that the Plaintiff is currently incarcerated in the Department of Corrections, having been convicted of murder. That, upon information and belief, Plaintiff is currently at Perry Correctional Institution in Pelzer, South Carolina, which is in Greenville County, South Carolina.

3. That as to the allegations of paragraph 2 of the Plaintiff's Complaint, it is admitted, upon information and belief, that the South Carolina Department of Corrections is a government agency and/or department of the State of South Carolina with correction facilities located throughout the state. Further, it is admitted that Perry Correctional Institution is in Greenville County, South Carolina. Further, it is admitted that SCDC employs agents, servants,

and employees who work at its correction facilities and specifically at Perry Correctional Institution.

4. That as to the allegations of paragraph 3 of the Plaintiff's Complaint, strict proof thereof is demanded.

5. That as to the "Factual Allegations" of paragraphs 4 through 14 of the Plaintiff's Complaint, except as is expressly admitted, modified or explained herein, said allegations, as framed, are denied and strict proof thereof is demanded. It is admitted, upon information and belief, that the Plaintiff started serving a life sentence on November 24, 1993 after having been convicted of the crime of murder and, upon information and belief, the Plaintiff has remained incarcerated at various institutions since that time and through this date. Otherwise, the allegations of paragraphs 4 through 14 of the Plaintiff's Complaint are denied as framed and strict proof thereof is demanded.

6. That as to the allegations of Plaintiff's First Cause of Action consisting of paragraphs 15 through 17, said allegations are denied and strict proof thereof is demanded.

FOR A SECOND DEFENSE

7. That the Defendant and its agents and employees at all times acted in accordance with their rights and responsibilities as are established by law and, upon information and belief, the Plaintiff's claim is subject to the immunities granted to the Defendant under the South Carolina Tort Claims Act. That the Defendant therefore pleads and asserts the South Carolina Tort Claims Act as a complete and absolute defense and bar to the claims set forth in the Plaintiff's Complaint. That the Defendant specifically pleads and asserts all statutes of limitations, conditions of recovery, limitations of recovery, exclusions from liability and caps and/or limits on damages as are set forth in the South Carolina Tort Claims Act. That further, the

Defendant pleads specifically, but without limitation, the provisions of S.C. Code Ann. §15-78-60(3)(4)(5)(6)(20) and (25).

FOR A THIRD DEFENSE

8. That the Defendant pleads and asserts the provisions of S.C. Code Ann. §15-78-30 as a complete and absolute defense and bar to any state law claims set forth in the Plaintiff's Complaint.

FOR A FOURTH DEFENSE

9. That the Defendant pleads and asserts the provisions of S.C. Code Ann. §15-78-120 as a complete and absolute bar and defense to any and all state law claims asserted by the Plaintiff in the Plaintiff's Complaint.

FOR A FIFTH DEFENSE

10. That to the extent the Plaintiff himself was negligent, careless, reckless, willful and/or wanton in failing to take precautions for his own safety and/or welfare, the comparative fault of the Plaintiff is asserted as a complete and absolute bar to any recovery by the Plaintiff from the Defendant, and/or alternatively the Defendant pleads and asserts the comparative fault of the Plaintiff in mitigation of any alleged damages sought to be recovered by the Plaintiff in this action.

FOR A SIXTH DEFENSE

11. That to the extent acts or omissions of third parties caused injuries to the Plaintiff, same is and/or was not foreseeable and such actions amount to superseding, intervening causes which the Defendant pleads as an additional and affirmative defense.

FOR A SEVENTH DEFENSE

12. That the Defendant denies any breach of any duty of the standard of care to the Plaintiff and the Defendants denies having committed any act or omission that was a direct and/or proximate cause of any alleged damages asserted in this claim.

FOR AN EIGHTH DEFENSE

13. That the Defendant herein pleads and asserts the public duty rule or public duty doctrine as a bar and/or defense to any state law claims set forth in the Plaintiff's Complaint.

WHEREFORE, the Defendant, having fully answered the Plaintiff's Complaint, prays as follows:

1. That the Complaint of the Plaintiff be dismissed.
2. That the Defendant be granted such other and further relief as is just and proper.

Respectfully submitted,

CHAPMAN, HARTER & HARTER, P.A.
s/ Russell W. Harter, Jr.
Russell W. Harter, Jr., # 2778
Carly H. Davis, #11397
14 Lavinia Avenue (29601)
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Attorneys for Defendants

Greenville, South Carolina
March 29, 2021



Greenville Common Pleas

Case Caption: Reginald Byrd vs. Department Of Corrections South Carolina
Case Number: 2021CP2300179
Type: Order/Restore Case To Active Docket

So Ordered

G.D. Morgan Jr.

Electronically signed on 2023-05-17 12:13:23 page 2 of 2

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS

CASE NO. 2021-CP-23-00179

Reginald Byrd,

Plaintiff,

v.

SOUTH CAROLINA DEPARTMENT
OF CORRECTIONS,

Defendant.

PROPOSED ORDER TO RESTORE

This matter comes before the Court upon Consent Motion to Restore filed by the Plaintiff, without objection from counsel for the Defendant. This matter was stricken from the Court's docket, pursuant to Rule 40(j), SCRCP, on November 17, 2022. The Plaintiff now submits this Consent Order seeking to have this case restored and specifically requests that it be assigned a new Civil Action number and be assigned to the General Docket.

IT IS SO ORDERED that this matter be restored to the General Docket and assigned a new docket number pursuant to Rule 40(j) of the South Carolina Rules of Civil Procedure.

AND IT IS SO ORDERED.

Chief Administrative Judge
13th Judicial Circuit

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF GREENVILLE

C.A. NO.: 2023-CP-23-02526

Reginald Byrd

**AMENDED
MOTION TO AMEND**

Plaintiff,

-vs-

**South Carolina Department of
Corrections,**

Defendant.

The Defendant, by and through its undersigned counsel, moves for an order of Court pursuant to Rule 15 of the South Carolina Rules of Civil Procedure to allow the Defendant to amend its Answer. The Defendant seeks leave of Court to set forth as an additional defense another subsection of §15-78-60, specifically subsection (14). Also, the Defendant seeks leave to plead and assert the S.C. Workers Compensation Act as an additional defense in that same is the exclusive remedy for the Plaintiff's injury claim. See S.C. Code Ann., § 42-1-10, et seq.; SC Code Ann., § 42-1-540, S.C. Code Ann., § 42-7-65, S.C. Code Ann., § 42-1-480 and S.C. Code Ann., § 42-1-490.

It has recently come to the attention of defense counsel that the Plaintiff's claim is subject to the South Carolina Workers' Compensation Act which is the exclusive remedy for his alleged injury claim, and the Defendant seeks leave to amend the Answer previously filed and served to assert these additional legal defenses, including lack of subject matter jurisdiction.

Rule 15 of the South Carolina Rules of Civil Procedure provides that leave shall be freely given when justice requires and when there is no prejudice. The proposed Amended Answer is attached as Exhibit A.

There is no prejudice to the Plaintiff in that the time to file a claim under the Workers' Compensation Act for this plaintiff has not expired.

Respectfully submitted,

CHAPMAN HARTER, P.A.

s/ Russell W. Harter, Jr.
Russell W. Harter, Jr., # 2778
14 Lavinia Avenue (29601)
Post Office Box 10224 (29603)
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ATTORNEY FOR DEFENDANT

Greenville, South Carolina
January 23, 2025

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS

C.A. NO.: 2023-CP-23-02526

Reginald Byrd

Plaintiff,

**DEFENDANT'S MOTION TO DISMISS
FOR LACK OF JURISDICTION, OR IN
THE ALTERNATIVE, MOTION FOR
SUMMARY JUDGMENT**

-vs-

**South Carolina Department of
Corrections,**

Defendant.

Please take notice that the Defendant, the South Carolina Department of Corrections, by and through their undersigned counsel will move before the presiding judge of the Court of Common Pleas for Greenville County, South Carolina at the Greenville County Courthouse on the 10th day after service hereof for an Order to Dismiss the Plaintiff's Complaint pursuant to Rule 12(b)(1) and 12(b)(6) of the South Carolina Rules of Civil Procedure, and/or in the alternative, for Summary Judgment pursuant to Rule 56 of the South Carolina Rules of Civil Procedure on the following grounds:

Plaintiff filed an action against the Defendant based on allegations of injuries the Plaintiff received while working in the kitchen at Perry Correctional Institution. The Plaintiff's claim is barred by the exclusive remedy provided by the South Carolina Worker's Compensation Act and the circuit court lacks subject matter jurisdiction.

Further, this Motion is based upon the provisions of S.C. Code §15-78-60(14), S.C. Code §42-7-65, §42-1-480, §42-1-490, §42-1-10, §42-1-540, §42-1-160, and *Davis v. South Carolina Department of Corrections*, 289 S.C. 123, 345 SE2d, 245 (1986).

Further, this Motion shall be based upon such other statutory or common law applicable,

any Affidavits, and such other evidence as is properly before the trial judge at the time of any motion hearing.

Respectfully submitted,

CHAPMAN HARTER, P.A.

s/ Russell W. Harter, Jr.
Russell W. Harter, Jr., S.C. Bar # 2778
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ATTORNEY FOR DEFENDANT

Greenville, South Carolina
March 4, 2025

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS
C.A. NO.: 2023-CP-23-02526

Reginald Byrd,

Plaintiff,

-vs-

*PLAINTIFF'S RESPONSE TO
DEFENDANT'S MOTION TO DISMISS FOR
LACK OF JURISDICTION, OR IN THE
ALTERNATIVE, MOTION FOR SUMMARY
JUDGMENT*

South Carolina Department of
Corrections,

Defendant.

PLEASE TAKE NOTICE that Plaintiff now replies to Defendant's Motion to Dismiss for Lack of Jurisdiction or, in the alternative, Motion for Summary Judgment filed with this Court on March 4, 2025. Plaintiff argues that, pursuant to the arguments below and those to be heard before the Court, this Court has subject matter jurisdiction and this action should not be dismissed pursuant to South Carolina Rules of Civil Procedure ("SCRPC") Rule 12(b)(1), Rule 12(b)(6), or, in the alternative, Rule 56.

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 v. S.C. State Univ., 350 S.C. 416, 422, 567 S.E.2d 231, 234 (2002). The procedure for raising lack of subject matter jurisdiction prior to trial is to file a motion to dismiss pursuant to Rule 12(b)(1), SCRPC. Posey v. Proper Mold & Eng'g, Inc., 378 S.C. 210, 217, 661 S.E.2d 395, 399 (Ct. App. 2008). Any doubts as to a worker's status should be resolved in favor of including him or her under the Workers' Compensation Act. Id. It 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. Id.

South Carolina has expressly provided that an inmate of the Department of Corrections who suffers an injury for which worker's compensation benefits are provided may, upon his release, be paid compensation for his injury. S.C. Code Ann. Section 42-1-480 (1976). Section 42-1-480 states, in part:

Any inmate of the State Department of Corrections ... 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 ... 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.

Id.

On or about January 24, 2019, Plaintiff was an assigned "senior leader" in the Perry Correctional Institution's cafeteria; Plaintiff was *assigned* to the kitchen as an *unpaid* worker. He was responsible for certain kitchen related responsibilities regarding inmate kitchen staff and inmate meals. Plaintiff alleged that while working on or about January 24, 2019, he was attacked by another inmate due to the gross negligence of staff actions. As a result of the attack, Plaintiff was injured to his head and body, and required medical intervention.

Based on the foregoing, and any additional evidence and/or argument presented during a hearing before this Court, Plaintiff asks this Court to **DENY** Defendant's Motion to Dismiss for Lack of Jurisdiction or, in the alternative, Motion for Summary Judgment.

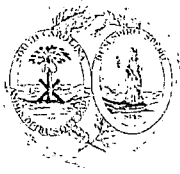
Respectfully submitted,

s/ Aaron S. Jophlin

Aaron S. Jophlin, S.C. Bar #71175
 Bell Legal Group
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ATTORNEY FOR PLAINTIFF

Georgetown, South Carolina
March 10, 2025



Greenville Common Pleas

Case Caption: Reginald Byrd vs. Department Of Corrections South Carolina
Case Number: 2023CP2302526
Type: Order/Dismissal

So Ordered

Hon Perry H. Gravely, Chief Administrative
Judge-Civil

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STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS

C.A. NO.: 2023-CP-23-02526

Reginald Byrd

Plaintiff,

ORDER

-vs-

South Carolina Department of
Corrections,

Defendant.

This matter came before me for a hearing on March 18, 2025 via WebEx, on the Defendant's Motion to Dismiss pursuant to Rule 12(b)(1) and Rule 12(b)(6) of the South Carolina Rules of Civil Procedure for the reason that this Court lacks subject matter jurisdiction.

The Plaintiff alleges that on or about January 24, 2019, he was working in the kitchen at Perry Correctional Institution as an inmate worker and that another inmate retrieved an industrial-type can opener and struck the Plaintiff in the head causing him injuries. The Complaint alleges negligence and gross-negligence as to the South Carolina Department of Corrections. The Defendants, in their Answer, deny any liability and set forth provisions of the Tort Claims Act as additional defenses. The Defendant, through counsel, has filed this Motion to Dismiss based on the ground that the South Carolina Worker's Compensation Act is the exclusive remedy available to the Plaintiff for this injury.

The Defendant's Motion to Dismiss references applicable statutory and case law. The Plaintiff filed a Response in Opposition.

I find that pursuant to S.C. Code Annotated §42-1-480, the Plaintiff is an inmate by definition with the South Carolina Department of Corrections and the claim that he alleges was a claim and/or injury that resulted from and during the performance of his work in the kitchen at Perry Correctional Institution.

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 v. S.C. State Univ.*, 350 S.C. 416, 422,

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567 S.E.2d 231, 234 (2002). The procedure for raising lack of subject matter jurisdiction prior to trial is to file a motion to dismiss pursuant to Rule 12(b)(1), SCRC. *Posey v. Proper Mold & Eng'g, Inc.*, 378 S.C. 210, 217, 661 S.E.2d 395, 399 (Ct. App. 2008). Any doubts as to a worker's status should be resolved in favor of including him or her under the Workers' Compensation Act. *Id.* It 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. *Id.*

Coverage for worker's compensation purposes depends on the employment relationship which is a jurisdictional question. See *Edens v. Bellini*, 597 S.E.2d 863 (Ct. App. 2004). Section 42-1-540 of the Worker's Compensation Act provides the exclusive remedy for the Plaintiff in this case. See *Posey v. Proper Mold and Engineering, Inc.*, 661 S.E.2d 395 (Ct. App. 2008).

In *Davis v. South Carolina Dept. of Corrections*, 345 S.E.2d 245 (1986), the Court held that a kitchen worker at an SCDC facility was entitled to worker's compensation including medical benefits. In doing so, the Court directed that the Worker's Compensation Act should be, "liberally construed" in favor of providing coverage within the Worker's Compensation Act.

I find that pursuant to the applicable case law, S.C. Code §42-1-540, and S.C. Code §42-1-480, this Court lacks subject matter jurisdiction of this case, that the Worker's Compensation Act is the sole and exclusive remedy for the Plaintiff's injury, and accordingly this matter should therefore be dismissed with prejudice.

It is therefore ordered, adjudged and decreed that the above caption matter be, and same is, dismissed with prejudice for lack of subject matter jurisdiction.

AND IT IS SO ORDERED.

E-signature of Judge Gravely to follow

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STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

COURT OF COMMON PLEAS NONJURY

REGINALD BYRD,)
)
) PLAINTIFF,)
)
) VS.)
)
) SOUTH CAROLINA DEPARTMENT OF)
) CORRECTIONS,)
)
) DEFENDANT.)

TRANSCRIPT
OF
RECORD

2023-CP-23-2526

March 18th, 2025

B E F O R E:

THE HONORABLE PERRY H. GRAVELY, Judge.

A P P E A R A N C E S:

AARON S. JOPLIN
ESQ.
Attorney for the Plaintiff

RUSSELL W. HARTER, JR.
ESQ.
Attorney for the Defendant

Transcribed by Pamela E. Green, from
WebEX

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I N D E X

(WHEREUPON, there were no exhibits marked or
testimony taken during this hearing.)

1 P R O C E E D I N G S

2
3 THE COURT: All right. And this is the case of Byrd
4 versus South Carolina Department of Corrections,
5 2023-CP-23-2526.

6 This was on the trial roster for next week, March the
7 24th. Had a phonecall from the attorneys and we agreed
8 that we would hear this motion this week so that it could
9 be addressed before the trial roster for next week. So --
10 and everybody consented to that.

11 Is that correct?

12 MR. HARTER: Yes.

13 MR. JOPLIN: Yes, sir.

14 MR. HARTER: Yes, it is, Your Honor.

15 THE COURT: All right. So, I guess, Mr. Harter, you
16 have two motions. One is a motion to amend answer and the
17 other motion for summary judgment. We'll address the
18 summary judgment and, after that, we'll determine whether
19 we need to even consider the motion to amend your answer.

20 MR. HARTER: Okay, sir. And, and, judge, thank you
21 for, for accommodating us on this and the, the -- this
22 case involves an allegation where Mr. Byrd, who was a
23 kitchen worker at Perry, was assaulted by a fellow inmate
24 there in the kitchen.

25 Byrd was actually a kitchen worker. He was a senior

1 worker there in the kitchen and this other inmate had
2 slipped in there and, and hit him with a part of a can
3 opener and, and this -- and Aaron filed suit for, for, for
4 Mr. Byrd and I got -- answered and got involved in the
5 case.

6 We did some discovery, judge, and then I will tell
7 you, I will be very candid, I, I did not appreciate the
8 implication of being a, a -- the -- working in the prison
9 industry or working in the kitchen and it was brought to
10 my attention that this was a worker's compensation claim.
11 And immediately, when that happened, I contacted Aaron. I
12 told him, you know, kind of what the deal was. We filed
13 our motion and then we filed, you know, the proposed
14 amended answer.

15 Aaron and I have talked about this. We have
16 discussed the case.

17 But, basically, where we are, judge, is we are now at
18 the point where the, the case is on the roster as you know
19 but we have -- but I have raised this issue about the
20 worker's compensation statute. And under the applicable
21 law, that is subject matter jurisdiction based on my
22 research and my understanding of the law, and it's a, it's
23 a point -- subject matter jurisdiction can be raised at
24 any point even on appeal.

25 But, you know, quite frankly, I wish I'd of done it

1 earlier. But it -- we are where we are.

2 And so, basically, judge, it -- it's -- you know, I
3 hope it's fairly straightforward. We move for summary
4 judgment based on the fact that Mr. Byrd, Inmate Byrd was
5 a member of the -- of kitchen staff. He was an inmate
6 worker at the time. The provisions of the worker's
7 compensation statute apply.

8 In our motion -- and it's exclusive remedy. In our
9 motion, we've referenced provisions of the Code Section
10 under Title 42 and specifically *Davis versus the South*
11 *Carolina Department of Corrections*.

12 Under *Edens versus Bellini*, 597 S.E.2d 863, the
13 worker's compensation statute is the exclusive remedy. It
14 is a jurisdictional issue.

15 Also *Posey*, 661 S.E.2d 395, the General Assembly has
16 designated the South Carolina Worker's Comp Statute as the
17 exclusive remedy for an employee who has a work related
18 injury or accident.

19 Under 42-14 -- 44-1-480, that statute actually says
20 that a, a SCDC inmate -- and I can't put my hands on that
21 statute right now, judge. I had it here a second ago.

22 Is---

23 MR. JOPLIN: Mr. Harter, if I may interrupt you?

24 It's in my response, judge, if you want to look at my
25 response. I included it just for convenience.

1 MR. HARTER: Yeah, I can't -- I think I got it right
2 here. Just -- here, here we go. I got it. I apologize.

3 Judge, it's 42-1-480. It says an inmate at the South
4 Carolina Department of Corrections in the performance of
5 his work in connection with the maintenance of the
6 institution who suffers, and I'm paraphrasing, who suffers
7 an injury for which compensation is specifically
8 prescribed in this title, upon being released from such
9 institution either upon parole or upon discharge, can be
10 awarded and paid compensation under the provision --
11 provisions of this title. And it provides the time limit
12 for filing a claim is one year from the date of death of
13 the inmate or one year from the date of his release or
14 parole.

15 So---

16 THE COURT: So he can't use worker's comp to add to
17 his canteen account?

18 MR. HARTER: Don't know about that. I don't think he
19 can. I don't think he can get it. Well, I don't think he
20 can---

21 THE COURT: I mean, according to this, it sounds like
22 he can't probably even apply until a year after---

23 MR. HARTER: That's exactly right.

24 THE COURT: ---he's released.

25 MR. HARTER: That -- that's exactly -- he, he, he can

1 not be awarded benefits until a year after --

2 THE COURT: Yeah.

3 MR. HARTER: -- and that's just the way it is.

4 I mean -- and the average weekly wage is, is \$40.00.
5 That's spelled out in 42-7-65.

6 And I guess to be -- and, again, it's pretty clear he
7 is an employee for purposes of, of, of worker's comp and,
8 and Aaron -- you know, Aaron raised maybe the issue about
9 whether or not he is appointed or whether he gets a check
10 or he gets compensation now for -- I don't think that's
11 the issue and I think 42-1-480 is clear and it doesn't
12 make that a condition of this entitlement to worker's
13 compensation.

14 But, more specifically, and more on point, is the
15 case of *Davis versus the South Carolina Department of*
16 *Corrections*.

17 Judge, that's 345 S.E.2d 245 and, in that case, that
18 was actually a kitchen helper who had an injury and got
19 burned and, and he had got comp. But the question out
20 there was whether or not he would also be en -- entitled
21 to, I, I think, medical benefits, okay, and the Court said
22 that, that, that medical benefits I think would be also
23 part of the, the recovery that he could be had -- that
24 could be had under the worker's comp statute.

25 And that Court said the worker's compensation act

1 should be liberally construed in further -- in furtherance
2 of the purposes for which it was designed. Any reasonable
3 doubts as to construction should be resolved in favor of
4 the claimant by including him within the coverage of the
5 act rather than excluding him.

6 So, I mean I think *Davis* is very much on point. It's
7 an actually -- actually involved a kitchen worker case
8 and, and I will tell you I've also spoken with general
9 counsel with the Department of Corrections and that that
10 is consistent with their understanding is that Mr. Byrd,
11 in this case, is entitled to worker's comp.

12 So -- and, and how he gets benefits, when he gets
13 benefits, how that works will all just be something that
14 falls under, you know, 40 -- Title 42.

15 Also, just -- I'm also aware of a -- of an order
16 issued by a famous judge in the case of Terrance Person
17 versus First Choice and this was Circuit Court order in
18 December of 2018. It's 2017-CP-23-1537. And this famous
19 judge in that particular case addressed many of these same
20 issues about the worker's comp being the exclusive remedy
21 and how that act is to be liberally construed in favor of
22 including coverage and how it is a jurisdictional issue.

23 So, I think, judge, that pretty much outlines my
24 position on this. I'll be glad to try to answer any
25 questions. Sorry I had to fumble around and find the

1 statute.

2 But I think, you know, I think it's pretty clear this
3 is a worker's comp case. Exclusive remedy is worker's
4 comp and that's Mr. Byrd's remedy and fortunately that
5 remedy is still there. I would have felt a little
6 different had, you know, Mr. Byrd been released and then
7 this statute or time had run for him to file a worker's
8 comp claim. I would of felt a little funny about that
9 because I actually didn't catch it myself, you know.

10 But he has not been prejudiced in any way by that
11 and, you know, respectfully, I believe we're entitled to
12 or respectfully I don't believe the Circuit Court has
13 jurisdiction and it can be addressed either by way of a
14 12(b)(6) motion, which is what we're here on, or with a, a
15 summary judgment motion and we couched it as, as both, a
16 summary judgment---

17 THE COURT: Yeah.

18 MR. HARTER: ---and 12(b)(6).

19 THE COURT: All right.

20 MR. HARTER: So that's pretty much where we are,
21 judge. That's my position. I'd be glad to answer any
22 questions you might have.

23 THE COURT: All right. Mr. Joplin, what can you come
24 up with?

25 MR. JOPLIN: Well, thank you, Your Honor.

1 Unfortunately, Mr. Harter's, he's sort of took the
2 steam out of the one point I had. I don't think I have --
3 you know, in all candor to the Court, I would have to
4 argue against precedent to be able to make any kind of,
5 any kind of arguments here.

6 I do acknowledge the precedent that's out there. I
7 acknowledge the appellate standards that are out there and
8 also the case law that states, you know, as I, I pointed
9 out in my reply, yeah, the Court's liberally construe this
10 worker's comp statute. Court's have directed if there's
11 any question as to the applicability that is to be
12 enforced.

13 Mr. Byrd was not a paid worker. He was appointed --
14 it's an honor position to be working in the kitchen. He
15 worked there with a few others under the supervision of a
16 civilian kitchen manager and then there were guards
17 that -- within the cafeteria.

18 He was injured by another inmate who was previously
19 assigned to the kitchen and had snuck his way back into
20 the kitchen utilizing some deceit and, you know, not
21 turning in his clothes and then utilizing the guards, you
22 know, any kind of old list or anything for the kitchen
23 personnel that may of existed. So, he's able to get over
24 there and injure my client.

25 Mr. Byrd, I have had the opportunity to explain all

1 this to Mr. Byrd. He does not agree with it.

2 I would like to put on the record, just for his --
3 some of his points that I know he would like the court to
4 know, which is, you know, he -- even though his injuries
5 did heal, he was injured rather bad that day. He does
6 feel that the guards were negligent, if not grossly
7 negligent, for falling prey to the other inmate's
8 deception.

9 I've explained to him that -- how worker's comp
10 works. You know, even if somebody's held up at gunpoint
11 at a convenience store, you know, employed there and they
12 get shot, that is a worker's comp claim. They were hurt
13 on-the-job regardless of it was intentional tort,
14 accidental tort, you know, that came walking in the door.

15 You know, I, I would argue -- I think that my really
16 only point is to argue that he was not paid even though I
17 also acknowledge at the same time that the worker's comp
18 statute does not require remuneration I don't think for
19 any kind of definition of an employee/employer
20 relationship.

21 THE COURT: And also too I think that, even though he
22 didn't get paid, he got a pretty substantial benefit
23 because I'm sure that helped reduce him and gave him
24 additional good time for his max out date.

25 MR. JOPLIN: Yes, sir, and, and -- yeah, the

1 worker's, worker's comp state -- as you're familiar, the
2 worker's comp statute is, you know, full of other
3 conditions where, you know, an employer/employee
4 relationship can be found. Other than -- you know, I
5 would just, on my client's behalf, ask you to deny the
6 motion.

7 THE COURT: When did -- do you know when he, when he
8 gets -- when his max out date is?

9 MR. JOPLIN: I don't cause he is under a life
10 sentence.

11 THE COURT: Oh, okay.

12 MR. JOPLIN: I believe he was sentenced before the---

13 THE COURT: Life -- before life meant life.

14 MR. JOPLIN: Before life meant life. So he may be
15 coming up. But I, I don't -- I'm not privy to those
16 equations.

17 THE COURT: Okay. All right. Anything else,
18 Mr. Harter?

19 MR. HARTER: No, sir.

20 THE COURT: Well, I mean I believe -- like I said, I
21 had read the, the briefs. In fact, I had pulled up *Davis*
22 and the statute here and it does look pretty clearcut
23 that, one, this is a jurisdictional issue and can be
24 raised at this point, and, two, that it is covered by the
25 worker's comp.

1 So, I'm gon' grant Mr. Harter's motion, and, Rusty,
2 what I will do is I'll issue a Form 4 that just says your
3 motion's granted, formal order to follow. That way it
4 gets it off the roster for next week.

5 MR. HARTER: Sounds good.

6 (WHEREUPON, Mr. Harter made an indiscernible
7 statement at this time.)

8 THE COURT: Well, thank y'all for coming in in such
9 short notice.

10 MR. JOPLIN: No, thank you for hearing it on such
11 short---

12 MR. HARTER: Thank -- yeah, thank you and if it
13 please---

14 MR. JOPLIN: And, Rusty, will you prepare that order?

15 MR. HARTER: I'm sorry?

16 MR. JOPLIN: Will you prepare the order for us,
17 Rusty?

18 MR. HARTER: Yes.

19 MR. JOPLIN: Great.

20 MR. HARTER: I will. I'll run it by you, Aaron.

21 THE COURT: All right. And email it to my law clerk,
22 Rusty.

23 MR. HARTER: Okay.

24 THE COURT: All right. Thank you.

25 MR. HARTER: I will.

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MR. JOPLIN: Thank you, sir.

MR. HARTER: Thank you.

Okay.

* * *END OF REQUESTED TRANSCRIPT OF RECORD* * *

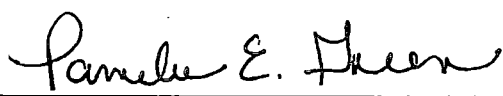
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C E R T I F I C A T E

I, Pamela E. Green, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas Nonjury for Greenville County, South Carolina, on the 18th day of March, 2025.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

June 24th, 2025



PAMELA E. GREEN, Court Reporter