

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF HORRY	)	FIFTEENTH JUDICIAL CIRCUIT
	)	
ISMAIL O. DICKERSON,	)	
	)	CASE NO. 2025-CP-26-03488
Plaintiff,	)	
	)	
v.	)	<b><u>MOTION TO DISMISS</u></b>
	)	<b><u>(IN LIEU OF ANSWER)</u></b>
FIFTEENTH CIRCUIT SOLICITOR’S	)	
OFFICE, JIMMY A. RICHARDSON II AS	)	
HEAD SOLICITOR, MORGAN O’BRYAN	)	
MARTIN AS ASSISTANT SOLICITOR,	)	
GEORGE DEBUSK AS ASSISTANT	)	
SOLICITOR, DYLAN BAGNAL AS	)	
ASSISTANT SOLICITOR (INDIVIDUAL	)	
AND OFFICIAL CAPACITY),	)	
	)	
Defendants.	)	
	)	

TO: ISMAIL O. DICKERSON, PLAINTIFF *PRO SE*:

PLEASE TAKE NOTICE that Defendants Fifteenth Circuit Solicitor’s Office (the “Solicitor’s Office”), Jimmy A. Richardson II as Head Solicitor, Morgan O’Bryan Martin as Assistant Solicitor, George Debusk as Assistant Solicitor, Dylan Bagnal as Assistant Solicitor (Individual and Official Capacity) (collectively, “Defendants”), by and through their undersigned counsel, hereby move the Court, pursuant to Rules 12(b)(3), 12(b)(4), 12(b)(6) and 12(f) of the South Carolina Rules of Civil Procedure, to enter an Order dismissing with prejudice the above-captioned case. This motion is based on the following grounds:

1. Plaintiff’s case should be dismissed due to insufficiency of service of process on the grounds that Plaintiff has not accomplished service upon Defendants pursuant to the requirements of Rule 4(d) of the South Carolina Rules of Civil Procedure.

2. Plaintiff’s case should be dismissed due to insufficiency of process and/or stricken from the docket on the grounds that Plaintiff has filed successive “Amended Complaint[s]” without

summons and otherwise in violation of Rule 15(a) of the South Carolina Rules of Civil Procedure.

3. Plaintiff's state and federal claims are barred by the doctrine of absolute prosecutorial immunity because Plaintiff's claims arise from the prosecution of underlying criminal charges by the Solicitor's Office and its attorneys. *See Imbler v. Pachtman*, 424 U.S. 409, 430 (1976); *Williams v. Condon*, 347 S.C. 227, 553 S.E.2d 496 (Ct. App. 2001).

4. Plaintiff's state law claims against the Solicitor's Office and the Defendants in their official capacities are further barred by sovereign immunity and the South Carolina Tort Claims Act ("SCTCA"), specifically those exceptions to the waiver of immunity found in S.C. Code Ann. § 15-78-60(1) ("legislative, judicial, or quasi-judicial action or inaction"), § 15-78-60(3) ("execution, enforcement, or implementation of the orders of any court or execution, enforcement, or lawful implementation of any process"), § 15-78-60(4) ("adoption, enforcement, or compliance with any law or failure to adopt or enforce any law, whether valid or invalid . . ."), § 15-78-60(5) ("the exercise of discretion or judgment by the governmental entity or employee or the performance or failure to perform any act or service which is in the discretion or judgment of the governmental entity or employee"), § 15-78-60(23) ("institution or prosecution of any judicial or administrative proceeding"), and S.C. Code Ann. § 15-78-30(f) (barring claims for "intentional infliction of emotional harm").

5. Plaintiff's state law claims against the Defendants in their individual capacities are further barred by the SCTCA, specifically including S.C. Code Ann. § 15-78-70(c), which provides that a person bringing an action against a governmental entity "shall name as a party defendant only the agency or political subdivision for which the employee was acting . . . ."

6. Plaintiff's state law claims are further barred on the grounds that Plaintiff has failed to state facts sufficient to constitute any cause of action against Defendants. Among other reasons, Plaintiff cannot proceed because he was found guilty by a jury in the underlying criminal proceedings, and his conviction stands. *See* Verdict Form, Sentencing Sheets, True Bills, and Arrest Warrants in A/W No. 2021A2620602590-Docket No. 2022GS2600949 (murder) and A/W No. 2021A2620602591-Docket No. 2022GS2600950 (possession of weapon during the commission of a violent crime), attached hereto as Exhibit "A."

7. Plaintiff's state law claims are further barred in whole or in part by the applicable two-year statute of limitations. *See* S.C. Code Ann. § 15-78-110.

8. Plaintiff's federal claims are further barred by *Heck v. Humphrey*, 512 U.S. 477 (1994) because Plaintiff cannot show that the charges against him were terminated in his favor. In *Heck*, the Supreme Court held that – until a conviction is set aside or charges finally dismissed without the possibility of revival – a federal claim cannot be pursued based on allegations of unlawful circumstances surrounding a criminal prosecution or imprisonment. *Id.* at 484-87.

9. Plaintiff's federal claims against the Solicitor's Office and Defendants in their official capacities are further barred by sovereign immunity because the state has not waived its immunity or consented to suit on constitutional claims. *See* S.C. Code Ann. § 15-78-20(b) (preserving "immunity from liability and suit for any tort except as waived by this chapter . . ."). Moreover, neither the Solicitor's Office nor Defendants in their official capacities are "persons" subject to suit under 42 U.S.C. § 1983. *See Simpson v. Florence Cnty. Complex Solicitor's Off.*, 2019 WL 7900144, at \*3 (D.S.C. Nov. 7, 2019) (summarily dismissing the solicitor's office because it is not a person as required by Section 1983).

10. Plaintiff's federal claims against Defendants in their individual capacities are further barred because Plaintiff has failed to plead any plausible violation of the Constitution and/or by the doctrine of qualified immunity.

11. Plaintiff's federal claims are further barred in whole or in part by the applicable three-year statute of limitations.

12. Plaintiff's federal causes of action otherwise fail to state any claim upon which relief can be granted against Defendants.

This Motion to Dismiss is based on the pleadings, the South Carolina Rules of Civil Procedure, the common and statutory law of the State of South Carolina and the United States, the filings and public record in Plaintiff's underlying criminal action, and such other and further material as may be presented to the Court at or before the hearing on this matter.

Respectfully submitted,

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July 2, 2025

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ISMAIL O. DICKERSON,	)	
	)	CASE NO. 2025-CP-26-03488
Plaintiff,	)	
	)	<b><u>CERTIFICATE OF SERVICE</u></b>
v.	)	
	)	
FIFTEENTH CIRCUIT SOLICITOR'S	)	
OFFICE, JIMMY A. RICHARDSON II AS	)	
HEAD SOLICITOR, MORGAN O'BRYAN	)	
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ASSISTANT SOLICITOR (INDIVIDUAL	)	
AND OFFICIAL CAPACITY),	)	
	)	
Defendants.	)	
	)	

The undersigned hereby certifies that a true copy of the foregoing ***MOTION TO DISMISS (IN LIEU OF ANSWER)*** was served this day, July 2, 2025, on the pro se party below by depositing the same in the United States mail, postage pre-paid and affixed hereto, and addressed to the following:

Ismail O. Dickerson #271978  
 McCormick Correctional Institution  
 386 Redemption Way  
 McCormick, S.C. 29899  
*Plaintiff Pro Se*

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