

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)
)
Randle Jackson as the Personal)
Representative of the Estate of Dashaun)
Simmons,)
)
Plaintiff,)
)
vs.)
)
The South Carolina Department of)
Corrections,)
)
Defendant.)
)
_____)

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT

CASE NO.: 2018-CP-40-04850

ORDER

RECEIVED

Dec 15 2025

SC Court of Appeals

This matter came before Judge Coble on Plaintiff and Defendant’s cross Motions for Summary Judgment, and Defendant’s Motion for Protection from Discovery. Judge Coble heard the Motions in person on August 4, 2025. Present at the hearing was counsel for the Plaintiff, William Allen Jr. and Joshua Hawkins, and counsel for the Defendant, William Davidson. At the conclusion of arguments from both parties, the Motion for Protection from Discovery was considered RESOLVED and Judge Coble took the remaining matters under advisement.

In a determination of Summary Judgment, the “mere scintilla” standard no longer applies to Rule 56(c). *Kitchen Planners, LLC v. Friedman*, 440 S.C. 456, 463, 892 S.E.2d 297, 301 (2023). Rather, the “genuine issue of material fact” standard set forth in Rule 56(c) is proper. *Id.* Therefore, a Motion for Summary Judgment will be denied where a genuine issue of material fact is found. Alternatively, a Motion for Summary Judgment will be granted where, when viewed in the light most favorable to the non-moving party, there is not found to be a genuine issue of material fact.

After carefully considering arguments of counsel, applicable law, and filings of the parties, the court rules as follows:

(1) Defendant's Motion for Summary Judgment is DENIED as genuine issues of material fact exist; and

(2) Plaintiff's Motion for Summary Judgment as to the Affirmative Defenses is GRANTED.

- a. Comparative Negligence: there is no genuine issue of material fact to support the affirmative defense that the inmate was responsible for his own assault.
- b. Intervening Acts: the assault by fellow inmates was clearly a foreseeable consequence of Defendant's actions, and thus there is no genuine issue of material fact as to intervening acts.
- c. TCA Exemptions: Defendant demonstrated an utter lack of concern for the safety of Plaintiff before the assault occurred and after Defendant was made aware of the assault. Defendant has numerous policies in place to ensure the safety of the guards and the prisoners in the institution, and many of those policies were completely ignored. This alone is grounds to rule as a matter of law the Defendant was grossly negligent. Further, this Court finds that the Plaintiff is entitled to summary judgment with respect to Defendant's claim of exemptions under the Tort Claims Act, S.C. Code § 15-78-60 (3), (4), (5), (6), (13), (17), (20), and (25).
- d. Discretionary Immunity: There is no evidence that Plaintiff's injuries are the result of a discretionary choice conforming to any professional standards.
- e. Assumption of the Risk: There is no evidence that the Plaintiff voluntarily exposed himself to assault by other inmates.
- f. Joinder: Defendant has identified no necessary or indispensable party that should be named.

(3) The Plaintiff's Motion to Compel is GRANTED. The Defense shall turn over any relevant documents in its possession.

This case has been pending for nearly seven years, at this point, the facts are what the facts are. Putting aside all claims of discovery abuse¹ and delay by both sides, the evidence, or lack thereof, leads this Court to the decision it has made.

All rulings are based on the oral arguments and written memoranda presented in support of the motions. The prevailing party shall provide a more formal order within ten (10) days.

AND IT IS SO ORDERED.

[JUDICIAL E-SIGNATURE PAGE TO FOLLOW]

¹ The Court puts zero credence into the arguments regarding defense counsel's "reputation" and wholly disregards them.



Richland Common Pleas

Case Caption: Dashawn Simmons , plaintiff, et al vs South Carolina Department Of Corrections
Case Number: 2018CP4004850
Type: Order/Other

So Ordered

s/ Daniel Coble, 2774