

Dec 30 2025

SC Court of Appeals

ELECTRONICALLY FILED - 2024 May 09 8:48 AM - RICHLAND - COMMON PLEAS - CASE#2022CP4003484

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Suzanne Young,

Plaintiff,

vs.

Richland County Sheriff Leon Lott in his
Official Capacity as Sheriff of Richland
County,

Defendant.

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT

Civil Action No. 2022-CP-40-03484

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

This matter was before the Court on April 15, 2024, for a hearing on Defendant Richland County Sheriff Leon Lott in his Official Capacity as Sheriff of Richland County's [hereinafter referred to as "Defendant"] Motion to Dismiss Plaintiff's Amended Complaint. Present at the hearing, Matthew C. LaFave, Esquire as counsel for Defendant and Kenneth M. Matthews, Esquire as counsel for Plaintiff. Having taken the matter under advisement and considered the filings and evidence, as well as the arguments of counsel, the Court finds that Plaintiff's Amended Complaint was filed beyond the two (2) year statute of limitations afforded by the South Carolina Tort Claims Act, specifically, S.C. Code Ann. § 15-78-110. Further, the Court finds that Plaintiff cannot satisfy the required elements of Rule 15(c), S.C. Rules of Civ. P. for the Amended Complaint to relate back to the originally filed Complaint. Therefore, Plaintiff's Amended Complaint is dismissed.

BACKGROUND AND FACTS

Plaintiff's original lawsuit was e-filed on July 8, 2022, and arises out of a motor vehicle collision that occurred on April 30, 2021. *See generally* Plaintiff's Complaint. The accident reportedly occurred when Aiden Sean Evans, a deputy with the Richland County Sheriff's Department, was responding to a call. Deputy Evans, while operating lights and siren, proceeded

into an intersection on a red light when his vehicle was struck by Plaintiff. Plaintiff in the July 8, 2022 Complaint named, as Defendants, Aiden Sean Evans, and Richland County. Following the filing of this lawsuit Plaintiff proceeded to serve same on Leonardo Brown, of Richland County, on November 15, 2022 and Deputy Evans personally.

In response to the lawsuit filed on July 8, 2022, Defendants Evans and Richland County timely filed a Motion to Dismiss and/or Strike on December 14, 2022. The motion, as pertaining to the instant motion, was premised on two (2) arguments. First, Defendant Evans was not a proper party pursuant to the South Carolina Tort Claims Act, S.C. Code Ann. § 15-78-70(c), as he was, at the time of the accident, acting in the scope of his official duties as a deputy of the Richland County Sheriff's Department. Second, Defendant Richland County was not a proper party pursuant to the South Carolina Tort Claims Act, S.C. Code Ann. § 15-78-10 as they were not Defendant Evans' employer.

Prior to the hearing on the December 14, 2022 motion, which was scheduled to be heard on June 27, 2023, the parties entered into a Consent Order, which permitted Plaintiff to amend the Complaint to name the proper party defendant. Defendant, in entering into the Consent Order retained his rights to file a future motion to dismiss pursuant to Rule 12(b)(c), S.C. Rules of Civ. P. Plaintiff thereafter amended the Complaint, as agreed upon, and filed same on July 19, 2023. In response to the Amended Complaint Defendant filed the instant motion.

STANDARD OF REVIEW

The circuit court may dismiss a claim when the defendant demonstrates a plaintiff's "failure to state facts sufficient to constitute a cause of action" in the pleadings filed with the court." *Hambrick v. GMAC Mortg. Corp.*, 370 S.C. 118, 121-22, 634 S.E.2d 5, 7 (Ct.App. 2006) (quoting *FOC Lawshe Ltd. P'ship v. Int'l Paper Co.*, 352 S.C. 408, 412, 574 S.E.2d 228, 230

(Ct.App. 2002) (quoting Rule 12(b)(6), SCRPC). The circuit court “must dispose of a motion for failure to state a cause of action based solely upon the allegations set forth on the face of the complaint.” *Brown v. Leverette*, 291 S.C. 364, 366, 353 S.E.2d 697, 698 (1987) (citation omitted). “All properly pleaded factual allegations are deemed admitted for ... a motion for judgment on the pleadings.” *FOC Lawshe Ltd. P’ship*, 352 S.C. at 413, 574 S.E.2d at 230.

A claim may be dismissed pursuant to Rule 12(b)(6) when the pleadings “construed in the light most favorable to the non-moving party, fail to allege sufficient facts to state a cause of action.” Rule 12(b)(6), SCRPC; *Haskell Co. v. Morgan*, 374 S.C. 261, 262 S.E.2d 737 (1980). However, if on a motion under Rule 12(b)(6), “matters outside the pleadings are presented to and not excluded by the Court, the motion shall be treated as one for summary judgment and disposed of as provided in Rule 56.” Rule 12(b)(6).

ANALYSIS

The South Carolina Tort Claims Act [hereinafter referred to as the “TCA”] governs all tort claims against South Carolina governmental entities and is a plaintiff’s exclusive civil remedy available in an action against a governmental entity or its employees. *Washington v. Lexington County Jail*, 337 S.C. 400, 403, 523 S.E.2d 204, 206 (Ct.App. 1999) (quoting *Murphy v. Richland Memorial Hosp.*, 317 S.C. 560, 455 S.E.2d 688 (1995)). This case is inarguably an action against an employee of the Richland County Sheriff’s Department thus making the TCA Plaintiff’s exclusive remedy.

An action for damages under the TCA may be instituted at any time “within two years after the loss was or should have been discovered.” S.C. Code Ann. 15-78-100(a). “Except as provided for in Section 15-3-40, any action brought pursuant to this chapter is forever barred unless an action is commenced within two years after the date the loss was or should have been

discovered....” S.C. Code Ann. § 15-78-110. There is only one germane exception to the two-year statute of limitations as espoused by S.C. Code Ann. § 15-78-110 and that is where a verified claim has been served in compliance with the requirements of S.C. Code Ann. § 15-78-80. S.C. Code Ann. § 15-78-80 sets forth specific requirements for filing a verified claim, which include that the claim be “verified”, *served on the governmental entity “employing the employee”* within one (1) year after the loss, contain the circumstances that brought about the loss, extent of the loss, time and place of the loss, names of those involved and the amount of the loss. (*emphasis added*). “Filing is accomplished by receipt of certified mail or by compliance with service of process.” *Vines v. Self Memorial Hospital*, 314 S.C. 305 307, 443 S.E.2d 909, 910 (1994).

Plaintiff’s counsel, in the present case, contends that communication occurred in this case regarding this loss within one (1) year of the loss. In furtherance of this contention a copy of a letter of representation, dated June 11, 2021, was produced, along with correspondence that followed same. The documents produced included a denial letter from PAI, which is the third-party claims administrator for Richland County, and a follow-up letter to Richland County advising them of the impending lawsuit. Plaintiff’s counsel had no communication with Deputy Evans’ employer.

South Carolina Courts construe the requirements for a verified claim strictly. “Substantial compliance is not sufficient” to bestow upon a plaintiff the three (3) year statute of limitations. *Id.*; (*quoting Rink v. Richland Memorial Hospital*, 310 S.C. 193, 422 S.E.2d 747 (1992); *Cochran v. City of Sumter*, 242 S.C. 382, 131 S.E.2d 153 (1963), overruled on other grounds; *McCall v. Batson*, 285 S.C. 243, 329 S.E.2d 741 (1985); *Searcy v. Dep’t of Educ. Transp. Div.*, 305 S.C. 544, 402 S.E.2d 486 (Ct.App. 1991)). In fact, the Supreme Court held in *Vines* that “to the extent that *Braudie v. Richland County* holds that substantial compliance is sufficient, it is overruled.” *Id.*,

S.C. at 307, 443 S.C. at 910. Moreover, in accordance with S.C. Code Ann. § 15-78-20(f) “[t]he provisions of this chapter establishing limitations on and exemptions to the liability of the State, its political subdivisions, and employees, while acting within the scope of official duty, must be liberally construed in favor of *limiting* the liability of the State.” (*emphasis added*). Plaintiff’s counsel presented no showing of a verified claim form having been submitted.

Accordingly, and irrefutably, Plaintiff has failed to comply with the requirements established by the TCA affording her the benefits of a three (3) year statute of limitations. Therefore, it is established that the Amended Complaint was filed beyond the statutory two (2) year limitation under S.C. Code Ann. § 15-78-110.

As established hereinabove Plaintiff filed the original Complaint on July 8, 2022, which was, inarguably, within two (2) years of the date of the accident giving rise to this lawsuit. However, the original Complaint named, as party defendants, Aiden Sean Evans and Richland County and as such a Motion to Dismiss was filed in response. Plaintiff’s counsel, in response to the Motion to Dismiss, sought to enter into a Consent Order permitting the amendment of the Complaint. Plaintiff, as evidenced by entering into the Consent Order filed July 11, 2023, acknowledged that neither were proper party defendants under the applicable sections of the South Carolina Tort Claims Act. Thereafter, Plaintiff, on July 19, 2023, filed the Amended Complaint naming the proper party defendant, Richland County Sheriff Leon Lott in his Official Capacity as Sheriff of Richland County.

Ordinarily, when a “claim or defense asserted in the amended pleading arose out of the conduct, transaction or occurrence set forth or attempted to be set forth in the original pleadings, the amendment relates back to the date of the original pleading.” Rule 15(c), S.C. Rules of Civ. P.

However, this rule contains additional requirements that must be satisfied for the change in party to relate back. Specifically, for an amended pleading, changing a party defendant to relate back:

the foregoing provision [must be] satisfied *and*, within the period provided by law for commencing the action against him the party may be brought in by amendment (1) has received such notice of the institution of the action that he will not be prejudiced in maintaining his defense on the merits, and (2) knew or should have known that, but for a mistake concerning the identity of the proper party, the action would have been brought against him.

Rule 15(c), S.C. Rules of Civ. P. (*emphasis added*)

There was no dispute that the claim asserted in the amended pleading arose out of the same occurrence as set forth in the original pleadings or that the amended pleadings represent the changing of a party defendant rather than the addition of a party defendant. Therefore, the initial provision of Rule 15(c), is undisputedly satisfied. However, Plaintiff's amended pleadings fail to satisfy a clear requirement of the remaining provisions of Rule 15(c). For the amended pleadings to relate back the change must be made "within the period provided by law for commencing the action against him." Rule 15(c), S.C. Rules of Civ. P. The amended pleadings were filed July 19, 2023, with the statute of limitations for this action having expired on April 30, 2023. Therefore, the amended pleadings, under the Rule, do not relate back as they were not brought within the period provided by law.

Moreover, Rule 15(c) requires, for amended pleadings to relate back, a showing that the party against whom the claim is now being brought "knew or should have known that, but for a mistake concerning the identity of the proper party, the action would have been brought against him." Rule 15(c), S.C. Rules of Civ. P. In this case Plaintiff presented no evidence establishing that Sheriff Lott had any knowledge of a pending action prior to the filing of the Amended Complaint. Plaintiff's counsel argued that knowledge existed as a result of the fact that Deputy Evans accident occurred while he was in the course and scope of his employment. However, this

only, taken in the light most favorable to Plaintiff, could lead to an inference that Sheriff Lott knew of his deputy's involvement in an accident. Knowledge of an accident does not lead to a showing of knowledge of a lawsuit. Plaintiff, therefore, has failed to show Sheriff Lott knew or should have known of the action.

Therefore, this Court finds that Plaintiff failed to fully satisfy the requirements of Rule 15(c), S.C. Rules of Civ. P. and as such the Amended Complaint must be dismissed.

CONCLUSION AND ORDER

IT IS, THEREFORE, ORDERED AND ADJUDGED, Defendant's Motion to Dismiss is GRANTED, judgment is hereby entered for and on behalf of Defendant as to all claims, and this matter is hereby DISMISSED with prejudice.

IT IS SO ORDERED.

The Honorable Jocelyn Newman
Chief Administrative Judge for the Fifth
Judicial Circuit

This ____ day of May 2024
Columbia, South Carolina



Richland Common Pleas

Case Caption: Suzanne Kay Young vs Aiden Sean Evans , defendant, et al
Case Number: 2022CP4003484
Type: Order/Dismissal

So Ordered

Jocelyn Newman

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