

In the State of South Carolina

In the Court of Appeals

Appeal from Richland County
Court of Common Pleas

Honorable James R. Barbee, III, Circuit Court Judge

Case No. 2010-CP-40-05896

~~Robert~~ Robert Beun, et al.,

Respondents

v.

Stewart Buchanan,

Appellant.

Notice of Appeal

Stewart Buchanan appeals the order of the Honorable James R. Barbee, III, dated March 27, 2012. Appellant received written notice of entry of this order on March 29, 2012.

Stewart Buchanan
Appellant

Dated: April 24, 2012

Other Counsel of Record:

Samuel F. Arthur, III, Esq.
Aiken Bridges Attorneys at Law
P.O. Drawer 1031
Florence, SC 29503

In the State of South Carolina

In the Court of Appeals

Appeal from Richland County
Court of Common Pleas

Honorable James R. Barber, III, Circuit Court Judge

Case No. 2010-CP-40-05946

Robert Brown, et al.,

v.

Respondents,

Stewart Buchanan,

Appellant.

Affidavit of Service By mail

Personally appears Affiant Stewart Buchanan who, first being duly sworn, hereby deposes and says that I placed my "Notice of Appeal" (with orders challenged) in sealed, postage prepaid envelopes addressed as listed below and deposited same in the United States mail at McCormick CI on this 24th day of April, 2012.

Envelopes Addressed To:

- (1) Hon. Kenneth A. Richstad, Clerk, S.C. Court of Appeals, P.O. Box 11629, Columbia, SC 29211;
- (2) Hon. Jeanette W. McBride, Clerk, Richland County, P.O. Box 2766, Columbia, SC 29202; and,
- (3) Samuel F. Arthur, III, Esq., P.O. Drawer 1931, Florence, SC 29503.

Stewart Buchanan
Affiant

Sworn to and subscribed before me this
24 day of April, 2012

J. Frankler

Notary Public

My Commission expires 12-16-2019

DM 4/24/12
Pos 4/24/12

Stewart Buchanan #009848
McAnnick II
386 Redempton Way
McLennan, SC 29899

April 24, 2012

The Honorable Kenneth A. Ricksford
Clerk, S.C. Court of Appeals
P.O. Box 11629
Columbia, SC 29202

Re: Stewart Buchanan, Robert Brown et al.
Case No. 2010CR-40-05946

Dear Mr. Ricksford:
Enclosed for filing is a notice of appeal in this case. Also enclosed are
the following:

- (1) Proof of service of the notice of appeal on the respondent;
- (2) A copy of the order which are to be challenged on appeal;
- (3) My motion for leave to proceed in forma pauper;
- (4) Copy of request for transcript from Court Reporter; and
- (5) My motion for order to compel Court Reporter to provide transcript without prepayment of cost;

Sincerely,
Stewart Buchanan

cc: Samuel F. Arthur, III, Esq., Attorney for Respondent, P.O. Drawer 1931,
Florence, SC 29503
File

Stewart Buchanan # 061848
McMinnville, OR 97128
386 Redemption Way
McCombs, SC 29089

AMS

Hon. Kenneth A. Richesby, Clerk of Court
S.C. Court of Appeals
P.O. Box 11629
Columbia, SC 29202

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NUMBER: 2010-CP-40-5896

Stewart Buchanan #69848

Robert Brown, et al.

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: _____

Attorney for : Plaintiff Defendant or Self-Represented Litigant

RICHLAND COUNTY
FILED
2012 MAR 27 AM 10:21
JANETTE W. McBRIDE
C. P. & O.S.

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC; Rule 43(k), SCRPC (Settled); Other _____
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other _____
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

Plaintiff's Motion to Alter or Amend pursuant to 59(e) is denied without oral argument.

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk : _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled
		\$
		\$
		\$

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court/order for judgment details.

Circuit Court Judge Samuel F. Arthur, III Judge Code 2110 Date 3/27/12

For Clerk of Court Office Use Only

This judgment was entered on the 27 day of Mar, 20 12 and a copy mailed first class or placed in the appropriate attorney's box on this 27 day of Mar, 20 12 to attorneys of record or to parties (when appearing pro se) as follows:

Stewart Buchanan
ATTORNEY(S) FOR THE PLAINTIFF(S)

Samuel F. Arthur, III.
ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter _____

Clerk of Court Janette W. McBride

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NUMBER: 2010CP4005896

Stewart #69848 Buchanan

Robert Brown

Ms Bowie

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: _____

Attorney for : Plaintiff Defendant or Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT:** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit);
 Rule 43(k), SCRPC (Settled); Other _____
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy;
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other _____
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk : _____

INFORMATION FOR THE PUBLIC INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled
		S
		S
		S

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge _____ Judge Code _____ Date _____

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this 21 November 2011 to attorneys of record or to parties (when appearing pro se) as follows:

Stewart #69848 Buchanan

Robert Brown
Samuel F. Arthur III

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter _____

Clerk of Court Jeanette W. McBride

SC/FILED

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS
C/A NO.: 2010-CP-40-05896

Stewart Buchanan, #69848,)
)
Plaintiff,)
)
vs.)
)
Robert Brown, in his individual)
capacity, [first name unknown])
Bowie, in her individual capacity,)
and David Tatarsky, in his individual)
capacity,)
)
Defendants.)
_____)

**ORDER GRANTING MOTION TO
DISMISS FOR LACK OF
SUBJECT MATTER JURISDICTION**

2011 NOV 17 AM 11:08
FILED
RICHLAND COUNTY
JEANETTE W. BRIDGE
C. P. & S.

This matter comes before the court for disposition of Defendants' previously filed Motion to Dismiss for Lack of Subject Matter Jurisdiction. A hearing of said Motion was conducted by this court on September 15, 2011. Appearing at the hearing on behalf of the Defendants was Samuel F. Arthur, III, Esquire. Plaintiff appeared *pro se*.

This court acknowledges that multiple other motions were pending and scheduled to be heard on September 15, 2011. However, given that Defendants' Motion to Dismiss for Lack of Subject Matter Jurisdiction had the potential to end this case and render all other pending motions moot, this court opted to receive and consider arguments from both sides regarding the Motion to Dismiss for Lack of Subject Matter Jurisdiction and hold all other pending motions in this case in abeyance until disposition of the Motion to Dismiss for Lack of Subject Matter Jurisdiction. For reasons more fully set forth below, this court finds that it is appropriate to dismiss this case for lack of subject matter jurisdiction, thereby rendering all other pending motions moot.

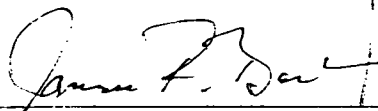
SCANNED

Plaintiff's Complaint clearly states allegations designed to challenge a disciplinary outcome, calculation of sentence-related credits, custody status, and/or other conditions of confinement. Therefore, prior to judicial review of Defendant's handling of said issues, Plaintiff is required to submit his case to the Administrative Law Judge Division ("ALJD"). *See Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (1999).

Following a review of the court's file regarding this matter and receipt and consideration of arguments presented by counsel for Defendant and *pro se* Plaintiff, this court finds that Plaintiff has indeed failed to exhaust all available administrative remedies, including, but not limited to appeal of unfavorable grievance decisions to the Administrative Law Judge Division. Therefore, inasmuch as Plaintiff has failed to exhaust his available administrative remedies in this case, this court finds that it is appropriate to dismiss Plaintiff's action pursuant to Rule 12(h)(3) of the *South Carolina Rules of Civil Procedure* for lack of subject matter jurisdiction.

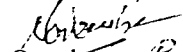
THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Defendants' Motion to Dismiss is **GRANTED**. Furthermore, any and all other pending motions related to this matter are also hereby dismissed as moot.

AND IT IS SO ORDERED!



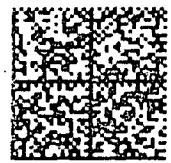
THE HONORABLE JAMES R. BARBER, III
FIFTH JUDICIAL CIRCUIT

Columbia, South Carolina


October 8, 2011.

Jeanette W. McBride
CLERK OF COURT
RICHLAND COUNTY
P.O. Box 2766
Columbia, SC 29202-2766

PRESORTED
FIRST CLASS



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