

**THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS**

Appeal from Spartanburg County
Court of Common Pleas

J. Derham Cole, Jr., Circuit Court Judge

Case No. 2026-CP-42-01716
Appellate Case No. 2026-001145

108799

RECEIVED

JUL 24 2026

SC Court of Appeals

Steve Emerson, #89994,

Appellant,

v.

Robert Strehlow, VI, MD,

Respondent.

RESPONDENT'S MOTION TO DISMISS

Joshua T. Thompson (SC Bar No. 79137)
BOULIER THOMPSON & BARNES, LLC
101 W. St. John Street, Suite 300
Spartanburg, South Carolina 29306
P.O. Drawer 6470 (29304)
jthompson@btblawfirm.com
(864) 606-9610

Attorneys for Respondent

Respondent Robert Strehlow, IV, MD (hereinafter, “Respondent”) by and through his undersigned counsel, moves to dismiss the appeal of Appellant Steve Emerson, #89994 (hereinafter, “Appellant”) pursuant to Rules 208(a)(4), 240(a), SCACR, and 260(a), SCACR based upon Appellant’s failure to file and serve his initial brief in accordance with the South Carolina Appellate Court Rules.

SUMMARY OF FACTS

On May 15, 2026, Appellant filed a “Notice of Appeal” with the in the South Carolina Court of Appeals. Within the “Notice of Appeal,” Appellant stated that he was appealing the April 30, 2026 order of the Honorable J. Derham Cole, Jr. denying his motion to proceed *in forma pauperis*.

According to his May 29, 2026 “Proof of Service” filed with the South Carolina Court of Appeals, Appellant alleges to have served Respondent with the Notice of Appeal on May 26, 2026.

In a letter filed with the South Carolina Court of Appeals on July 1, 2026, Appellant noted that there was no transcript for him to order because there was no hearing held on his motion to proceed *in forma pauperis*.

At present, sixty-six (66 days) have passed since Appellant’s “Notice of Appeal” was filed in the South Carolina Court of Appeals. Likewise, fifty-two (52) days have passed since Appellant alleges he served Respondent with the “Notice of

Appeal.” Nonetheless, Appellant has not filed and served his initial brief in compliance with Rule 208(a)(1), SCACR.

The instant motion follows.

ARGUMENT

This Court should dismiss Appellant’s appeal due to lack of timely pursuit. Despite having over two months to prepare, file and serve an initial brief since the “Notice of Appeal” was filed, Appellant has failed to do so.

Under Rule 208(a)(1), SCACR, the appellant “**shall**” file and serve his initial brief within thirty (30) days after serving his notice of appeal where there is no lower court hearing transcript to be ordered. (“Emphasis added.”) Two separate South Carolina Appellate Court Rules require dismissal when the appellant fails to timely file and serve his initial. Pursuant to Rule 208(a)(4), “the clerk of the appellate court **shall** sign an **order dismissing the appeal...**” when the appellant fails to timely file and serve his initial brief. (Emphasis added). Likewise, Rule 260 dictates, “[w]herever it appears that an appellant . . . has failed to comply with the requirements of these Rules, the clerk **shall issue an order of dismissal**, which shall have the same force and effect as an order of the appellate court.” (Emphasis added.)

“In interpreting the meaning of [procedural rules], the [c]ourt applies the same rules of construction used to interpret statutes.” Kosciusko v. Parham, 428 S.C. 481, 496, 836 S.E.2d 362, 370 (Ct. App. 2019), quoting Ex parte Wilson, 367 S.C. 7, 15,

625 S.E.2d 205, 209 (2005). “The term ‘shall’ in a statute means that the action is mandatory.” Johnston v. S.C. Dep’t of Lab., Licensing, & Regul., S.C. Real Est. Appraisers Bd., 365 S.C. 293, 296–97, 617 S.E.2d 363, 364 (2005).

Though Appellant is a pro se litigant, the South Carolina Supreme Court has charged him with full responsibility to comply with the South Carolina Appellate Court Rules: “A pro se litigant who knowingly elects to represent himself assumes full responsibility for complying with substantive and procedural requirements of the law.” State v. Burton, 356 S.C. 259, 265, 589 S.E.2d 6, 9 (2003). See also State v. Policao, 402 S.C. 547, 558, 741 S.E.2d 774, 780 (Ct. App. 2013) (quoting Burton for the same proposition of law); State v. Bryant, 383 S.C. 410, 418, 680 S.E.2d 11, 15 (Ct. App. 2009) (same).

Indeed, Appellant has shown his prowess of the court system. He first attempted to sue Respondent in Federal District Court for South Carolina on August 5, 2025 under case number 8:25-cv-09752-JFA. After review, that case was dismissed by the Honorable Joseph F. Anderson, Jr. on October 1, 2025. The referenced Complaint and Order are attached hereto as Exhibit A. Appellant then commenced the underlying state court action against Respondent in state court on April 14, 2026. The state court Complaint, without exhibits, is attached as Exhibit B. Appellant initiated the present appeal by filing his “Notice of Appeal” on May 15, 2026.

Appellant, therefore, seemingly has had nearly a year to formulate his arguments in this case. More precisely as to filing an initial brief in compliance with Rule 208(a)(1), SCACR, Appellant filed his “Notice of Appeal” on May 15, 2026, sixty-six (66) days ago. Appellant then filed his alleged “Proof of Service on May 26, 2026, fifty-two (52) days ago. Despite the passage of time, Appellant has not taken the mandatory step of filing and serving his initial brief within thirty (30) days of filing his “Notice of Appeal.” All the while, Respondent has dealt with the stress of Appellant’s attempts to litigate against him for nearly a year.

With Appellant having failed to file and serve his initial brief within the mandatory time set forth by the South Carolina Appellate Court Rules, Respondent requests that this Court dismiss Appellant’s appeal.

CONCLUSION

Appellant has had nearly a year to formulate his arguments in this matter. For nearly a year, Respondent has been faced with the stress of Appellant’s attempts at litigation. Despite the passage of time, Appellant has failed to timely file and serve his initial brief. Pursuant to Rules 208(a)(4) and 260(a), Appellant’s appeal should be dismissed.

[Signature block on next page.]

Respectfully submitted,

By:



Joshua T. Thompson (SC Bar No. 79137)

BOULIER THOMPSON & BARNES, LLC

101 W. St. John Street, Suite 300

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Attorneys for Respondent

Spartanburg, South Carolina

July 20, 2026

EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Steve Emerson #89994

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-against-

Robert Strehlow VI, MD

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

Complaint for Violation of Civil Rights

(Prisoner Complaint)

Case No. _____

(to be filled in by the Clerk's Office)

Jury Trial: ☒ Yes ☐ No
(check one)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

When submitted for filing, your complaint should be accompanied by the full filing fee or an application to proceed in *forma pauperis*.

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name

Steve Emerson

All other names by which you have been known:

ID Number

#89994

Current Institution

Perry Correctional - Q2A-103

Address

430 Oaklawn Rd.Pelzer S.C. 29669**B. The Defendant(s)**

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (if known) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name

Robert Strehlow VI, MD

Job or Title

Medical Doctor

(if known)

Shield Number

Employer

SMC - Center For Urology Spartanburg

Address

391 Serpentine Dr. Suite 500Spartanburg S.C. 29303☒ Individual capacity☐ Official capacity

Defendant No. 2

Name

Job or Title
(if known)

Shield Number

Employer

Address

N/A

☐ Individual capacity

☐ Official capacity

Defendant No. 3

Name

Job or Title
(if known)

Shield Number

Employer

Address

N/A

☐ Individual capacity

☐ Official capacity

Defendant No. 4

Name

Job or Title
(if known)

Shield Number

Employer

Address

N/A

☐ Individual capacity

☐ Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (*check all that apply*):

- ☐ Federal officials (a *Bivens* claim)
☒ State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

14th Amendment Due Process
Duty of Diligence of Health Care Provider
Disclosure of Alternative Modes of Medical Diagnosis

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

D. Section 1983 allows defendants to be found liable only when they have acted “under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia.” 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

Physician was not acting under color of law when
not informing or gaining consent to do another surgery
other than that which was disclosed causing patient
to lose ability to become aroused and left in constant pain.

III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (*check all that apply*):

- ☐ Pretrial detainee
☐ Civilly committed detainee
☐ Immigration detainee

- ☒ Convicted and sentenced state prisoner
☐ Convicted and sentenced federal prisoner
☐ Other (explain) _____

IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.

Patient was transported to Spartanburg Medical Center to undergo hydrocele surgery. 101 E. Woods St. Spartanburg SC. 29303

- B. If the events giving rise to your claim arose in an institution, describe where and when they arose.

- C. What date and approximate time did the events giving rise to your claim(s) occur?

31 March 2025

- D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

I was to undergo hydrocele surgery, but once opened up no hydrocele was obvious. Physician then continued and instead removed multiple

Cysts, whereby causing loss of ability to function or be aroused and continued pain in the lower regions. This being done without regard to informing or seeking consent.

V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

Patient has lost ability to become aroused and remains in constant pain and burning sensations. Before surgery patient functioned properly and has now lost enjoyment of life.

VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

1. \$150,000⁰⁰ for pain and suffering/loss enjoyment of life
2. Any possible corrective surgery

VII. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

- A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

☒ Yes

☐ No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

I was a resident of Perry Correctional
but transported to Spartanburg Medical
Center for Surgery.

- B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

☒ Yes

☐ No

☐ Do not know

But the individual physician is not grievable

- C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

☐ Yes

☒ No

☐ Do not know

If yes, which claim(s)?

- D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

☐ Yes

☒ No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

☐ Yes

☒ No

N/A

E. If you did file a grievance:

1. Where did you file the grievance?

N/A

2. What did you claim in your grievance?

N/A

3. What was the result, if any?

N/A

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. *(Describe all efforts to appeal to the highest level of the grievance process.)*

N/A

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

The physician is not a state
official or prison official that can
be greived

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

I've notified all institutional medical staff
including NP Enloe. They have full knowledge
of unconsented surgery and are aware of
my having 2 major infections since surgery.

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)

VIII. Previous Lawsuits

The "three strikes rule" bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has "on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this "three strikes rule"?

- ☐ Yes
☒ No

If so, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

- _____
- A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

☐ Yes

☒ No

- B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) _____

Defendant(s) _____

2. Court *(if federal court, name the district; if state court, name the county and State)*

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition. _____

7. What was the result of the case? (For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)

N/A

- C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment?

☐ Yes

☒ No

- D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)

1. Parties to the previous lawsuit

Plaintiff(s) _____

Defendant(s) _____

2. Court (if federal court, name the district; if state court, name the county and State)

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition. _____

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*
- _____
- _____

IX. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: July 28, 2025

Signature of Plaintiff

Printed Name of Plaintiff

Prison Identification #

Prison Address

89994 Perry Correctional

430 Oaklawn Rd. Pelzer, S.C. 29669

Pelzer

S.C.

29669

City

State

Zip Code

B. For Attorneys

Date of signing: _____, 20__.

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Address

Telephone Number

E-mail Address

N/A

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

Steve Emerson,

Plaintiff,

v.

MD Robert Strehlow, *Urologist*,
Defendants.

C/A No. 8:25-9752-JFA-WSB

**MEMORANDUM, OPINION, AND
ORDER**

I. INTRODUCTION

Plaintiff Steve Emerson, proceeding pro se, filed this civil action pursuant to 42 U.S.C. § 1983. In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2) (D.S.C.), the case was referred to the Magistrate Judge for pretrial proceedings.

Plaintiff filed this complaint pursuant to 28 U.S.C. § 1915, which permits an indigent litigant to commence an action in federal court without prepaying the administrative costs of proceeding with the lawsuit. To protect against possible abuses of this privilege, the statute allows a district court to dismiss a case upon a finding that the action fails to state a claim on which relief may be granted or is frivolous or malicious. 28 U.S.C. § 1915(e)(2)(B)(i), (ii). Accordingly, the Magistrate Judge reviewed Plaintiff's complaint and issued an order which notified Plaintiff that this action was subject to summary dismissal for various reasons. (ECF No. 9). However, the court allowed Plaintiff to file an amended complaint to cure the deficiencies. Plaintiff availed himself of this opportunity by filing an amended complaint on September 2, 2025. Thereafter, the Magistrate Judge prepared a thorough Report and Recommendation ("Report"). (ECF No.

15). Within the Report, the Magistrate Judge opines that this action is subject to summary dismissal pursuant to 28 U.S.C. § 1915(e)(2)(B). *Id.* The Report sets forth, in detail, the relevant facts and standards of law on this matter, and this Court incorporates those facts and standards without a recitation.

Plaintiff filed objections to the Report on September 26, 2025 (ECF No. 17). Thus, this matter is ripe for review.

II. STANDARD OF REVIEW

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261 (1976). A district court is only required to conduct a *de novo* review of the specific portions of the Magistrate Judge's Report to which an objection is made. *See* 28 U.S.C. § 636(b); Fed. R. Civ. P. 72(b); *Carniewski v. W. Virginia Bd. of Prob. & Parole*, 974 F.2d 1330 (4th Cir. 1992). In the absence of specific objections to portions of the Magistrate's Report, this Court is not required to give an explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Thus, the Court must only review those portions of the Report to which Petitioner has made a specific written objection. *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 316 (4th Cir. 2005). Then, the court may accept, reject, or modify the Report or recommit the matter to the magistrate judge. 28 U.S.C. § 636(b).

"An objection is specific if it 'enables the district judge to focus attention on those issues—factual and legal—that are at the heart of the parties' dispute.'" *Dunlap v. TM Trucking of the Carolinas, LLC*, No. 0:15-cv-04009-JMC, 2017 WL 6345402, at *5 n.6

(D.S.C. Dec. 12, 2017) (citing *One Parcel of Real Prop. Known as 2121 E. 30th St.*, 73 F.3d 1057, 1059 (10th Cir. 1996)). A specific objection to the Magistrate Judge's Report thus requires more than a reassertion of arguments from the complaint or a mere citation to legal authorities. See *Workman v. Perry*, No. 6:17-cv-00765-RBH, 2017 WL 4791150, at *1 (D.S.C. Oct. 23, 2017). A specific objection must "direct the court to a specific error in the magistrate's proposed findings and recommendations." *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982).

"Generally stated, nonspecific objections have the same effect as would a failure to object." *Staley v. Norton*, No. 9:07-0288-PMD, 2007 WL 821181, at *1 (D.S.C. Mar. 2, 2007) (citing *Howard v. Secretary of Health and Human Services*, 932 F.2d 505, 509 (6th Cir. 1991)). The Court reviews portions "not objected to—including those portions to which only 'general and conclusory' objections have been made—for *clear error*." *Id.* (citing *Diamond*, 416 F.3d at 315; *Camby*, 718 F.2d at 200; *Orpiano*, 687 F.2d at 47) (emphasis added).

III. DISCUSSION

As stated above, the relevant facts and standards of law on this matter are incorporated from the Report and, therefore, a full recitation is unnecessary here. (ECF No. 15). Briefly, the Plaintiff, an inmate in the South Carolina Department of Corrections, has asserted various claims arising out of a surgery performed by Defendant. Plaintiff was supposed to undergo hydrocele surgery. However, after surgery began, no hydrocele was obvious, and the physician then continued and instead removed multiple cysts, whereby

causing loss of ability to function or be aroused and continued pain in the lower regions. Plaintiff asserts this was done without his consent.

Despite these allegations, the Report recommends summary dismissal because Plaintiff's allegations, accepted as true, do not state a claim for deliberate indifference for a serious medical need as required to support a § 1983 claim. In essence, the Magistrate Judge concluded that Plaintiff's claims of medical malpractice allege mere negligence and do not rise to the level of a constitutional violation.

In response, Plaintiff filed "objections to Report and Recommendation." (ECF No. 17). When liberally construed, this filing appears to assert a single specific objection. Essentially, Plaintiff avers that his filings state a proper negligence claim for medical malpractice and his case should not be dismissed. (*See generally*, ECF No. 17) ("This case is a medical malpractice negligence case and shouldn't be ruled on by summary judgment.")("Plaintiff has requested a jury trial based on complaint being of medical negligence.")("Plaintiff states and said that Dr. Strehlow was negligence [sic] with his care.")("He is the sole Defendant and is the cause of the negligence.")("Mr. Robert Strehlow, MD was negligence [sic] with my medical care.")

The court agrees that Plaintiff may have asserted facts sufficient to support a negligence claim. However, as explained in the Report, mere negligence is not enough to support a § 1983 claim. *Estelle v. Gamble*, 429 U.S. 97, 106 (1976) ("Medical malpractice does not become a constitutional violation merely because the victim is a prisoner"). Plaintiff has failed to offer any additional facts or support which would show Plaintiff's

Eighth Amendment Rights were violated. Accordingly, Plaintiff has failed to show any error in the Report and his objection is overruled.

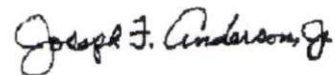
Consequently, Plaintiff has failed to sufficiently allege a claim for deliberate indifference to a serious medical need. Plaintiff may have a state law claim for negligence but does not allege a violation of his constitutional rights. Thus, Plaintiff's § 1983 claim must be dismissed. As explained in the Report, this dismissal deprives the court of subject matter jurisdiction. Because the court does not possess an alternative source of subject matter jurisdiction, such as diversity jurisdiction, the entirety of Plaintiff's claim must be dismissed.

IV. CONCLUSION

After a thorough review of the Report, the applicable law, and the record of this case, the Court finds no clear error in the Report. After a *de novo* review of each part of the Report to which Plaintiff specifically objected, the Court hereby adopts the Report and Recommendation. (ECF No. 15). For the reasons discussed above and in the Report, the complaint is dismissed without prejudice, without further leave to amend, and without issuance and service of process.

IT IS SO ORDERED.

October 1, 2025
Columbia, South Carolina



Joseph F. Anderson, Jr.
United States District Judge

EXHIBIT B

THE STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

IN THE COURT OF COMMON PLEAS
CASE NO:

STEVE EMERSON #89994

"SUMMONS"

PLAINTIFF,

"COMPLAINT"

V.

- MEDICAL NEGLIGENCE
PERSONAL INJURY -

ROBERT STREHLER V. MD

- PROXIMATE CAUSE
OF INJURY -

DEFENDANT,

2026-CP-42- 01716

YOU ARE SUMMONED AND REQUIRED TO ANSWER THE COMPLAINT IN THIS ACTION, A COPY OF WHICH IS SERVED ON YOU HERE, AND TO SERVE A COPY OF YOUR ANSWER TO THE COMPLAINT ON THE PLAINTIFF AT THE BELOW ADDRESS WITHIN THIRTY (30) DAYS AFTER THE SERVICE OF THE ANSWER, EXCLUSIVE OF THE DATE OF SERVICE. IF YOU FAIL TO ANSWER THE COMPLAINT WITHIN THE TIME MENTIONED, PLAINTIFF IN THIS ACTION WILL APPLY TO THE COURT FOR A DEFAULT JUDGEMENT WHICH WILL BE ENTERED AGAINST YOU FOR THE RELIEF DEMAND IN THE COMPLAINT IN THE AMOUNT OF \$250,000.⁰⁰ DOLLARS.

STEVE EMERSON #89994

Q2-A-103

PERRY CONNECTIONAL INST
430 OAKLAWN ROAD
PELZER, SOUTH CAROLINA

29669

Respectfully,
Yours,

Steve Emerson

FILED
APR 10 2025
PM 2:59

141

SWORN TO AND SUBSCRIBED BEFORE
ME THIS 11th DAY OF MARCH, 2026

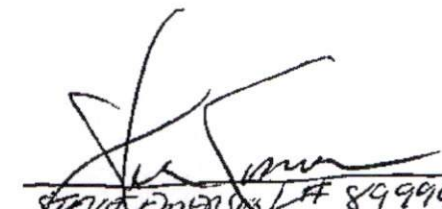

NOTARY PUBLIC FOR SOUTH CAROLINA

ALEXIS DANZY
Notary Public, State of South Carolina
My Commission Expires 2/8/2033

MY COMMISSION EXPIRES

"SEND COPY TO"

ROBERT STREHLow VI, MD
SMK-CENTRAL FIA UROLOGY SPARTANBURG
391 SERPENTINE DRIVE SUITE (500)
SPARTANBURG, SOUTH CAROLINA
29303


STEVEN EMERSON # 89994
Q2-A-103
PENNA CORRECTIONAL INST
430 OAKLAND ROAD
PELZER, SOUTH CAROLINA

2025 APR 14 PM 2:59

FILED

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

STEVE EMERSON #89994

PLAINTIFF,

v.

ROBERT STREHLOW VI, M.D

DEFENDANT,

IN THE COURT OF COMMON PLEAS

CASE NO:

"COMPLAINT"

- MEDICAL NEGLIGENCE
PERSONAL INJURY -

- PROXIMATE CAUSE
OF INJURY -

"ATTACH"

"DOCUMENTARY"

DOCUMENTS OF EVIDENCE

JURY TRIAL DEMANDED

2026-CP-42- 01716

I THE PLAINTIFF IN THIS COMPLAINT OF MEDICAL NEGLIGENCE PERSONAL INJURY AND PROXIMATE CAUSE OF INJURY, WILL SHOW THIS HONORABLE COURT, HOW THE DEFENDANT DOCTOR ROBERT STREHLOW A UROLOGIST AT THE SMC-CENTER FOR UROLOGY SPARTANBURG AT THE ADDRESS OF 391 SERPENTINE DRIVE SUITE (500) SPARTANBURG SOUTH CAROLINA 29303 OFFICE 864-585-8221 - FAX 864-542-9854, DID ON MARCH 31st, 2025 ON A TUESDAY A HYDROCELE SURGERY ON THE RIGHT TESTICLE WHICH IS THE CAUSE OF THE INJURY.

I THE PLAINTIFF OF THIS COMPLAINT WILL SHOW WITH DOCUMENTARY DOCUMENTS OF EVIDENCE FROM THE DOCUMENTS FROM THE TIME OF ALL THE PAST SURGERY UNTIL THE LAST SURGERY WHICH CAUSE THE INJURY THAT THE PLAINTIFF NOW HAS A HAVE HAD NOW FOR OVER (11) MONTHS, WITH UNBEARABLE PAIN AT ALL TIMES OF DAY AND NIGHT, PLAINTIFF IS SEEKING RELIEF IN THE AMOUNT OF \$250,000.⁰⁰

NEXT PAGE →

"BACKGROUND"

- (1) "PLAINTIFF'S FIRST SURGERY FOR A RIGHT HYDROCELE OF THE TESTICLE WAS MARCH 27TH, 2024 WHICH WAS ON A WEDNESDAY, THAT SURGERY WENT WELL AT THE TIME OF THE SURGERY AND ALSO AFTER SURGERY, UNTIL A FEW WEEKS INTO APRIL OF 2024 PLAINTIFF STARTED HAVING REALLY BAD PAIN IN THE RIGHT TESTICLE THE SAME SPOT THAT THE SURGERY WAS PERFORMED ON BY THE DEFENDANT DR. ROBERT STREHLON.
- (2) PLAINTIFF ON NOVEMBER 1ST, 2024 WHICH WAS ON A FRIDAY HAD A ULTRA-SOUND AT ANDERSON RADIOLOGY THAT SHOWED THAT PLAINTIFF HAD OTHER HYDROCELE WHICH WAS WHAT DOCTOR STREHLON TOLD THE PLAINTIFF AT THAT TIME, AFTER THAT WAS TOLD TO PLAINTIFF AT A APPOINTMENT ON DECEMBER 27TH, 2024 THEY SET UP A DATE FOR OTHER HYDROCELE SURGERY WHICH TOOK PLACE ON MARCH 31ST, 2025.
- (3) PLAINTIFF ON MARCH 31ST, 2025 WENT TO HAVE A HYDROCELE SURGERY ON THE RIGHT TESTICLE FOR THE SECOND TIME WITHIN 1 YEAR AND 4 DAYS AFTER FROM ²⁰²⁵ THE FIRST OF MARCH 27TH, 2024, (PLAINTIFF WAS NEVER TOLD ABOUT ANYTHING ABOUT HAVING MULTIPLE EPIDIDYMAID (CYSTS) NOT BEFORE OR EVEN AFTER THE SURGERY AND BECAUSE OF ALL THAT THIS IS WHERE DOCTOR STREHLON DID IN FACT CAUSE THE INJURY PLAINTIFF NOW HAS.

NEXT PAGE →

(3)

"BACKGROUND EXTENDED"

(4) PLAINTIFF'S SURGERY OF MARCH 31st, 2025
AT TIME OF MOMENT OF DISCOVERING OF THE
MULTIPLE LARGE EPIDIDYMAL CYSTS, DEFENDANT
RIGHT THEN SEEN THE (PERIL) AND HAD THE KNOWLEDGE
OF THE PLAINTIFF'S (PERIL).

"NOTE" (DEFINITION AND MEANING OF (PERIL))

SOMETHING THAT IS LIKELY TO CAUSE
INJURY, PAIN, HARM, OR LOSS

"END OF BACKGROUND"

I THE PLAINTIFF STEVE EMERSON #89994
IN THIS COMPLAINT WILL SHOW THIS HONORABLE
COURT WITH THE DOCUMENTS OF EVIDENCE SUBMITTED
WITH THIS COMPLAINT, THE ACTUALLY FACTS AND
THE TRUTH OF THE INJURY THAT I NOW HAVE
BECAUSE OF THE NEGLIGENCE OF THE DEFENDANT
MR ROBERT STREHLOW VI, M.D., WITH THE DOCUMENTS
OF EVIDENCE IT WILL SHOW THE FACT OF TRUTH OF
INFORMATION OF WHAT HAPPEND TO THE PLAINTIFF.

NEXT PAGE ➡

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"ELEMENTS OF A TORT"

THE ELEMENTS OF A CAUSE OF ACTION IN TORT FOR PERSONAL INJURY ARE (1) DUTY, (2) BREACH OF THAT DUTY, (3) PROXIMATE CAUSATION, AND (4) INJURY.

"CAUSATION IN FACT"

AS COMPONENT OF PROXIMATE CAUSE, IS PROVED BY ESTABLISHING THE INJURY WOULD NOT HAVE OCCURRED "BUT FOR" THE DEFENDANT'S NEGLIGENCE.

"LEGAL CAUSE"

AS COMPONENT OF PROXIMATE CAUSE, IS PROVED BY ESTABLISHING FORESEEABILITY MEANING THAT THE INJURY OCCURRED AS A NATURAL AND PROBABLE CONSEQUENCE OF THE DEFENDANT'S NEGLIGENCE.

"UNDER SOUTH CAROLINA LAW"

A DEFENDANT MAY BE HELD LIABLE FOR ANYTHING WHICH APPEARS TO HAVE BEEN NATURAL AND PROBABLE CONSEQUENCE OF HIS NEGLIGENCE.

"NEGLIGENCE"

NEGLIGENCE IS DEEMED TO BE PROXIMATE CAUSE OF INJURY WHEN, WITHOUT SUCH NEGLIGENCE, INJURY WOULD NOT HAVE OCCURRED OR COULD HAVE BEEN AVOIDED.

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"PROXIMATE CAUSE"

IS THE EFFICIENT, OR DIRECT CAUSE -
THE THING WHICH BRINGS ABOUT THE INJURIES
COMPLAINED OF.

"DEFENDANT"

DEFENDANT'S CONDUCT CAN BE A
PROXIMATE CAUSE IF IT WAS AT LEAST ONE
OF THE DIRECT, CONCURRENCE CAUSES OF THE
INJURY.

"THE ISSUE OF PROXIMATE CAUSE"

MAY BE RESOLVED BY "CIRCUMSTANTIAL
EVIDENCE"

"CONCLUSION"

A DEFENDANT'S NEGLIGENCE DOES NOT
HAVE TO BE THE SOLE CAUSE OF INJURY. LIABILITY
CAN ATTACH IF THE DEFENDANT'S NEGLIGENCE IS
A SUBSTANTIAL FACTOR IN BRINGING ABOUT THE
INJURY AT ISSUE IN THE CASE. → NEXT PAGE

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(6)

IF THE DEFENDANT'S CONDUCT IS A
SUBSTANTIAL FACTOR IN THE HARM TO ANOTHER,
THE FACT THAT HE NEITHER FORESAW NOR SHOULD
HAVE FORESEEN THE EXTENT OF HARM OR THE MANNER
IN WHICH IT OCCURRED DOES NOT NEGATIVE HIS
'LIABILITY'. PROXIMATE CAUSE IS ORDINARILY A
QUESTION OF FACT FOR THE JURY.

I THE PLAINTIFF STEVE EMERSON #89994 IN
COMPLAINT OF "MEDICAL NEGLIGENCE PERSONAL
INJURY OF PROXIMATE CAUSE OF INJURY" REQUEST
TO THIS HONORABLE COURT TO GRANT PLAINTIFF
HIS REQUEST FOR JURY TRIAL DEMAND, AT THE
COURT'S EARLIEST CONVENIENCE

CC "DEFENDANT"

ROBERT STREHLow VI, MD
SMC - CENTER FOR UROLOGY SPARTANBURG
391 SERPENTINE DRIVE SUITE (500)
SPARTANBURG, SOUTH CAROLINA

29303

SINCERELY,

Steve Emerson #89994
STEVE EMERSON #89994
Q2-A-103

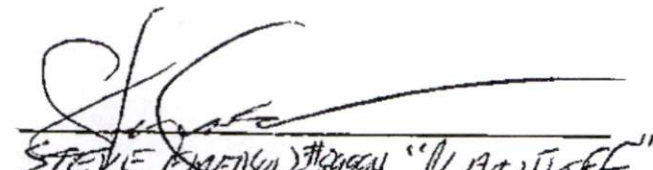
PERY CORRECTIONAL INST
430 OAKLAND ROAD
PELZER, SOUTH CAROLINA

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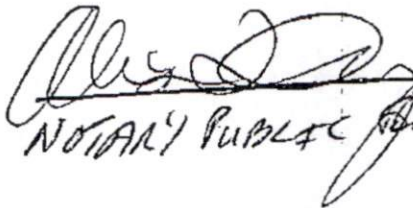
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(7)

I STEVE EMERSON THE PLAINTIFF DECLARE
UNDER THE PENALTY OF PERJURY IN THIS COMPLAINT
NOW BEFORE THE COURT OF COMMON PLEAS IN THE COUNTY
OF SPARTANBURG STATE OF SOUTH CAROLINA STATE ALL FACTS
OF INFORMATION WORDS STATED ARE THE TRUTH SO HELP
ME GOD.


STEVE EMERSON "PLAINTIFF"

SWORN TO AND SUBSCRIBED BEFORE
ME THIS 11TH DAY OF MARCH, 2026

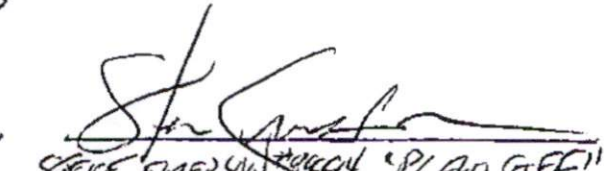

NOTARY PUBLIC FOR SOUTH CAROLINA

ALEXIS DANZY
Notary Public, State of South Carolina
My Commission Expires 2/28/2033

my commission expires

2026 APR 14 PM 2:59

FILED


STEVE EMERSON "PLAINTIFF"
CR2-A-103
PENNY CORRECTIONS INST
430 OAKLAND BLVD
TOLLETT, SOUTH CAROLINA
29669

**THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS**

Appeal from Spartanburg County
Court of Common Pleas

J. Derham Cole, Jr., Circuit Court Judge

Case No. 2026-CP-42-01716
Appellate Case No. 2026-001145

RECEIVED

JUL 24 2026

SC Court of Appeals

Steve Emerson, #89994,

Appellant,

v.

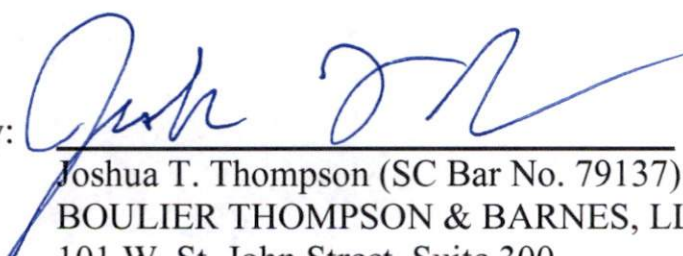
Robert Strehlow, VI, MD,

Respondent.

PROOF OF SERVICE

I, Joshua T. Thompson, of Boulrier Thompson & Barnes, LLC, attorneys for Respondent, hereby certify that **RESPONDENT'S MOTION TO DISMISS** was served on all other parties to this matter on July 20, 2026, by mailing via U.S. Mail a copy of the same to:

Steve Emerson, 89994
Perry Correctional Institution
430 Oaklawn Road
Pelzer, SC 29669

By: 

Joshua T. Thompson (SC Bar No. 79137)
BOULIER THOMPSON & BARNES, LLC
101 W. St. John Street, Suite 300
Spartanburg, South Carolina 29306
P.O. Drawer 6470 (29304)
jthompson@btblawfirm.com
(864) 606-9610
Attorneys for Respondent

Perry D. Boulrier
Joshua T. Thompson
A. Walker Barnes
Chad M. Graham
Katheryn B. Thompson*
V. C. "Vic" Bailey, IV
F. Wade Furnas
*Also Admitted in NC

BOULIER THOMPSON & BARNES, LLC

ATTORNEYS AT LAW

phone 864-606-9610

www.btblawfirm.com

101 W. St. John St., Suite 300
Spartanburg, SC 29306

P.O. Box 6470
Spartanburg, SC 29304

July 20, 2026

(Via US Mail)

Jenny Abbott Kitchings, Clerk of Court
South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

RECEIVED

JUL 24 2026

SC Court of Appeals

Re: Steve Emerson, #89994, Appellant v. Robert Strehlow, VI, MD, Respondent
S.C. Appellate Case No.: 2026-001145
Our file No.: 17978

Dear Ms. Kitchings:

I represent Respondent Robert Strehlow, VI, MD in the above captioned appeal. Appellant is pro se and copied on this letter. By copy of this letter with enclosures, I am serving Appellant with the below Motion to Dismiss and Proof of Service.

I am enclosing for filing, the following:

1. Respondent's Motion to Dismiss;
2. Proof of Service.

I am enclosing a Boulrier Thompson & Barnes, LLC check in the amount of \$50.00 representing the requisite filing fee in this matter.

Please return a clocked copy of Respondent's Motion to Dismiss and Proof of Service to me in the enclosed envelope as well as a receipt reflecting payment. Likewise, please do not hesitate to call me if you have any questions or concerns.

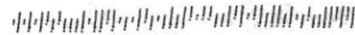
Sincerely,



Josh Thompson

Enclosure

C: Steve Emerson, 89994
Perry Correctional Institution
430 Oaklawn Road
Pelzer, SC 29669



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**BOULIER THOMPSON
& BARNES, LLC**

ATTORNEYS AT LAW

P.O. Box 6470, Spartanburg, SC 29304

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Jenny Abbott Kitchings, Clerk of Court
South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

SC Court of Appeals