

STATE OF SOUTH CAROLINA)
)
 COUNTY OF GREENVILLE)
)
 Patrick L. Booker, #297590,)
)
 Plaintiff,)
)
 v.)
)
 South Carolina Department of Juvenile)
 Justice; South Carolina Juvenile Parole)
 Board; South Carolina Department of)
 Social Services, State of South Carolina;)
 Randall L. Chambers,)
)
 Defendants.)

IN THE COURT OF COMMON PLEAS
 CASE NO: 2013-CP-23-01782

**ORDER GRANTING
 FULL DISMISSAL
 OF DEFENDANTS SOUTH CAROLINA
 DEPARTMENT OF JUVENILE
 JUSTICE, SOUTH CAROLINA
 JUVENILE PAROLE BOARD,
 SOUTH CAROLINA DEPARTMENT
 OF SOCIAL SERVICES, and STATE
 OF SOUTH CAROLINA**

FILED - CLERK OF COURT
 GREENVILLE CO, S.C.
 PAUL B. GREENSHAW
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ENTERED COMPUTER

Plaintiff Patrick L. Booker, proceeding *pro se*, has filed this action against five (5) Defendants: South Carolina Department of Juvenile Justice ("DJJ"); South Carolina Juvenile Parole Board ("JPB"); South Carolina Department of Social Services ("DSS"), the State of South Carolina, and Randall L. Chambers. As against Defendants DJJ, JPB, DSS, and the State of South Carolina, Plaintiff brings this action seeking relief ostensibly pursuant to the South Carolina Tort Claims Act, S.C. Code Ann. § 15-78-10, *et seq.* Defendants DJJ and JPB are represented by Janet Brooks Holmes, Esquire. Defendant DSS is represented by Russell W. Harter Jr., Esquire. Defendant State of South Carolina is represented by Kristin M. Simons, Esquire. Defendant Randall L. Chambers represents himself.

This matter came before the court on December 3, 2013¹, for a hearing on several motions filed by Plaintiff and Defendants. The Plaintiff was present. The attorneys for Defendants DJJ, JPB, DSS, and the State of South Carolina were present. Defendant Randall L.

¹ The Court takes notice that this hearing occurred on Plaintiff's 29th birthday. Plaintiff's Exhibits, filed and attached to his Amended Complaint, specifically state Plaintiff's date of birth.

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Chambers was not present. Having reviewed the motions, supporting documents, briefs, pleadings, and submissions, and also having welcomed oral argument from all parties on December 3, 2013, the Court **dismisses** Defendants South Carolina Department of Juvenile Justice ("DJJ"); South Carolina Juvenile Parole Board ("JPB"); South Carolina Department of Social Services ("DSS"), and the State of South Carolina from this lawsuit. The court **denies** the Plaintiff's motion for an appointment of an attorney to represent him in this matter and also for leave to amend his Complaint as to Defendant State of South Carolina

BACKGROUND AND RELEVANT FACTS

Plaintiff Patrick L. Booker (Plaintiff), a state prisoner who is proceeding *pro se*, initially brought this action seeking relief ostensibly pursuant to the South Carolina Tort Claims Act, S.C. Code Ann. § 15-78-10, *et seq.* The Plaintiff currently is serving a twenty-year adult-straight sentence at the South Carolina Department of Corrections (SCDC) for Armed Robbery. Plaintiff's Complaint admits that he was arrested in June 2002 for committing multiple armed robberies, and Plaintiff's Complaint also admits that he committed these crimes after December 14, 2001, when Plaintiff "was now seventeen years of age." [See Amended Complaint filed June 21, 2013, paragraphs (9), (11), (15) and (18)].

Plaintiff filed his initial Complaint in this matter on March 28, 2013, against two defendants: South Carolina Department of Juvenile Justice (DJJ) and South Carolina Juvenile Parole Board (JPB). Plaintiff's initial Complaint relates to alleged events that occurred prior to his current incarceration at SCDC and, thus, prior to the armed robbery in June 2002. Additionally, Plaintiff's Complaint relates to alleged events that occurred either prior to or during his commitment to the Defendant South Carolina Department of Juvenile Justice (DJJ) and South Carolina Juvenile Parole Board (JPB).

Plaintiff's initial Complaint contends that, in December 2001, DJJ and JPB had acted in ways that were negligent and grossly negligent by conditionally releasing him on parole to his mother Janice Booker on December 14, 2001. [See Initial Complaint filed March 28, 2013, paragraphs II (5) and (6)]. Specifically, Plaintiff pled that the Family Court's April 13, 2000, Commitment Order provided certain directives and that DJJ and JPB did not comply with this Order. [See Initial Complaint filed March 28, 2013, paragraphs II (2), (3), (4), (5), and (6)]. Plaintiff claimed that he did not know or understand that the Family Court had issued an order for [him] to be placed in a marine institute or similar group setting upon [his] release from the DJJ until June 6, 2011." [See Initial Complaint filed March 28, 2013, paragraph II (7)].

Plaintiff further claimed that, had the Defendants complied with these directives, he "would have received life and coping skills, discipline, structure, and a proper education all of which would have significantly reduced the risk of [him] committing a serious criminal offense." [See Initial Complaint filed March 28, 2013, paragraph II (10)]. He asserts that the Defendants failure to comply with the directives caused him to commit "multiple armed robberies in June 2002, just six months after his premature release from the DJJ" – he pleads that in June 2002 he "was arrested for having committed multiple armed robberies (among more criminal offenses) along with an individual" whom he "met and befriended within the DJJ," which has caused him great loss and mental anguish including his SCDC incarceration under a 20 year sentence for his guilty plea to armed robbery. [See Initial Complaint filed March 28, 2013, paragraphs II (10), (11), (12), (13)].

Within thirty days of the Summons and Complaint's service on them, Defendants DJJ and JPB each filed and served Answers and Motions to Dismiss asserting numerous grounds, including but not limited to, the expiration of any applicable statutes of limitations and other

defenses. Thereafter, Plaintiff filed - within 30 days of Defendants DJJ and JPB's Motions and Answer -- an Amended Complaint, which the Greenville County Clerk of Court stamped as filed on June 21, 2013; thus, the court allowed this Amended Complaint as a matter of course pursuant to Rule 15(a) of the South Carolina Rules of Civil Procedure (SCRCP). Although the Defendants' motions to dismiss on behalf of both Defendants DJJ and JPB were set for hearing on July 9, 2013, these hearings were continued due to Plaintiff's Amended Complaint, which he served on Defendants DJJ and JPB on July 9, 2013. Defendants DJJ and JPB each filed and served Answers and Motions to Dismiss to Plaintiff's Amended Complaint, again asserting numerous grounds, including but not limited to the expiration of any applicable statutes of limitations and additional defenses.

Plaintiff's Amended Complaint also seeks relief ostensibly pursuant to the South Carolina Tort Claims Act, S.C. Code Ann. § 15-78-10, *et seq.* Plaintiff's Amended Complaint names five (5) Defendants: DJJ, JPB, and newly-added South Carolina Department of Social Services ("DSS"), the State of South Carolina, and Randall L. Chambers. Plaintiff again makes the allegations as set forth above against Defendants DJJ and JPB, with additional claims regarding the same time-period from April 13, 2000 to December 14, 2001, as well as his June 19, 2002, arrest "for having engaged in the commission of several armed robberies to include various other serious criminal offenses associated with the robbery incidents, while serving juvenile parole." [See Amended Complaint filed June 21, 2013, paragraph (11)].

As against Defendant DSS, Plaintiff makes similar allegations regarding the Family Court's April 13, 2000, Commitment Order and an Supplemental Order issued by the Family Court on April 26, 2000. Plaintiff attached both of these Family Court Orders as Exhibits to his Amended Complaint. Plaintiff also contends that Defendant DSS did not comply with these

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Family Court Orders.

As against Defendant State of South Carolina, Plaintiff makes allegations relating to the constitutionality of S.C. Code Ann. § 14-1-235 regarding the appointment of an attorney to represent him in this civil action. Plaintiff also makes various allegations relating to his armed robberies, for which Plaintiff states in his Amended Complaint that he committed after he was seventeen years old and for which he was arrested on June 19, 2002, at age 17. Plaintiff makes various claims against the State of South Carolina's proceeding against him for these armed robberies in General Sessions court (as opposed to the Family Court).²

LEGAL ANALYSIS

1. Motions to Dismiss

"A trial judge in the civil setting may dismiss a claim when the defendant demonstrates the plaintiff has failed 'to state facts sufficient to constitute a cause of action' in the pleadings filed with the court." *Williams v. Condon*, 347 S.C. 227, 232-33, 553 S.E.2d 496, 499 (Ct. App. 2001), *citing* Rule 12(b)(6), SCRCF. The trial court's ruling on a Rule 12(b)(6) motion must be premised upon the well-pleaded allegations set forth by the plaintiff. *Williams v. Condon*, 553 S.E.2d at 499; *Edwards v. City of Goldsboro*, 178 F.3d 231, 244 (4th Cir. 1999). Although the court must take the facts in the light most favorable to the plaintiff, it "need not accept the legal conclusions [the plaintiff would draw] from the facts." *Giarratano v. Johnson*, 521 F.3d 298, 302 (4th Cir. 2008) (quoting *Eastern Shore Mkts., Inc. v. J.D. Assocs. Ltd. P'ship*, 213 F.3d 175, 180

² Plaintiff admits in his Amended Complaint that "On December 14, 2001, [Plaintiff] was released from the DJJ.... [Plaintiff] was now seventeen (17) years of age." See Plaintiff's Amended Complaint, ¶ 9. South Carolina law provides that, for purposes of the juvenile justice system, a person must be under the age of seventeen years at the time of committing the alleged offense; if the person is seventeen years or older at the time of committing the alleged offense, he must be tried in adult (General Sessions) court. S.C. Code Ann. § 63-19-20, formerly S.C. Code Ann. § 20-7-6605.

(4th Cir. 2000)(applying Rule 12(b)(6) of the FRCP, which is the same standard as Rule 12(b)(6) of the SCRCP). The court may also disregard any “unwarranted inferences, unreasonable conclusions, or arguments.” *Id.*

When considering the dismissal of a defendant(s) at this stage of litigation, a court should also consider paper(s) or exhibit(s) that are attached to and incorporated in the complaint or amended complaint when considering the Plaintiff’s allegations. *See* Rule 10(c), SCRCP (“A copy of any plat, photograph, diagram, document, or other paper which is an exhibit to a pleading is a part thereof for all purposes if a copy is attached to such pleading.”); *See also Burns v. Gardner*, 328 S.C. 608, 493 S.E.2d 356 (Ct. App 1997). Also, the court can take judicial notice of court orders or other official papers.

The question to be considered is whether, in the light most favorable to the plaintiff, the pleadings and any attachments thereto articulate any plausible, valid claim for relief. *Williams v. Condon*, citing *Toussaint v. Ham*, 292 S.C. 415, 357 S.E.2d 8 (1987); *Cowart v. Poore*, 337 S.C. 359, 523 S.E.2d 182 (Ct.App.1999); and *See* Rule 10(c), SCRCP.

2. Analysis in Present Case

a. Statute of Limitations

Defendants DJJ, JPB, DSS, and The State of South Carolina argue, *inter alia*, that they are all entitled to dismissal because Plaintiff’s claims against them are barred by the statute of limitations. Specific Defendants (and categories of Defendants) advance additional grounds for dismissal. For the reasons set forth below, the court dismisses these Defendants from this action because Plaintiff’s Complaint was filed outside the limitations period.

As stated in more detail above, with the exception of his constitutional challenge of S.C. Code Ann. § 14-1-235 regarding the appointment of an attorney to represent him in this civil

action, Plaintiff's Amended Complaint as against Defendants DJJ, JPB, DSS, and The State of South Carolina relates to alleged events that occurred prior to his current incarceration at SCDC, and prior to his arrest on armed robbery charges and other crimes in June 2002. [See Amended Complaint filed June 21, 2013, at best paragraphs (3), (4), (5), (6), (7), (9), (10), (11), (17), (18) and (19)].

Plaintiff's Amended Complaint incorporates by reference and attaches as Exhibits the Family Court's April 13, 2000, Commitment Order and also the "Supplemental Order" entered on April 26, 2000. Both of these Orders specifically state that Plaintiff (referenced as "the juvenile") was present, with his mother, at the April 13, 2000 hearing in which the Plaintiff ("the juvenile") shall be sentenced to DJJ and also "should be referred to the Marine Institute or similar group setting." See specifically "Supplemental Order" attached to Plaintiff's Amended Complaint. Thus, these documents are to be considered as allegations of Plaintiff's Complaint for purposes of a Rule 12 Motion to Dismiss. Not only are these Orders attached and incorporated by reference within Plaintiff's Amended Complaint, these documents are court orders for which the court can take judicial notice in ruling on a Rule 12 motion.

Despite having been released from the custody of the DJJ in December 2001, Plaintiff did not file his present Complaint until March 28, 2013, and his Amended Complaint until June 21, 2013. Plaintiff alleges that he became emotional during the dispositional hearing and, thus, "was granted permission by the judge to be taken back to the holding cell for the duration of the hearing." [See Amended Complaint filed June 21, 2013, paragraph (7)]. These two court orders specify Plaintiff's being present at his dispositional hearing and these orders do not give any indication that Plaintiff left the courtroom during the dispositional orders given at the hearing; in fact, these two court orders evidence Plaintiff's presence for his dispositional orders.

As noted above, Plaintiff states in his Complaint and Amended Complaint that his claims against Defendants DJJ, JPB, DSS, and The State of South Carolina arise under the South Carolina Tort Claims Act. In fact, Plaintiff pleads the South Carolina Tort Claims Act as the basis for his lawsuit against Defendants DJJ, JPB, DSS, and The State of South Carolina. Defendants DJJ, JPB, DSS, and The State of South Carolina contend that the Plaintiff's claims are barred because the applicable statute of limitations under the South Carolina Tort Claims Act has run. *See* S.C. Code § 15-78-110. The applicable statute of limitations at Section 15-78-110 reads as follows in pertinent part: "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 (Supp.2001).

In determining the date on which a statute of limitations begins to run, South Carolina courts apply the discovery rule. According to the discovery rule, the statute of limitations begins to run when a cause of action reasonably ought to have been discovered. *Dean v. Ruscon Corp.*, 321 S.C. 360, 364, 468 S.E.2d 645, 647 (1996). The statute runs from the date the injured party either knows or should have known by the exercise of reasonable diligence that a cause of action arises from the wrongful conduct. *Id.* The South Carolina Supreme Court has interpreted the "exercise of reasonable diligence" to mean that the injured party must act with some promptness where the facts and circumstances of an injury place a reasonable person of common knowledge and experience on notice that a claim against another party might exist. *Id.* Moreover, the fact that the injured party may not comprehend the full extent of the damage is immaterial. *Id.*

Based upon the plain language in the two April 2000 Family Court Orders attached to Plaintiff's Amended Complaint, Plaintiff was present in the courtroom when the Family Court

Judge ordered that Plaintiff be subject to an indeterminate sentence at the Department of Juvenile Justice, to be referred into a marine institute or other group setting [See Exhibits to Amended Complaint filed June 21, 2013].

Additionally, Plaintiff's Amended Complaint alleges "on December 14, 2001, I was released from the DJJ by the Juvenile Parole Board (JPB) to the custody and care of my mother, serving juvenile parole. I was now seventeen years of age." [See Amended Complaint filed June 21, 2013, paragraph (9)]. This court can take judicial notice of the two Family Court Orders from April 2000, attached to Plaintiff's Amended Complaint, stating that Plaintiff was present at his dispositional hearing. Plaintiff acknowledges that he was released from the DJJ to his mother on December 14, 2001. Thus, assuming for purposes of this motion that a cause of action exists, discovery occurred on December 14, 2001, when Plaintiff was seventeen (17) years old. *Doe v. Crooks*, 364 S.C. 349, 352, 613 S.E.2d 536, 538 (2005).

Because Plaintiff was not yet eighteen years old on December 14, 2001, the limitations period was tolled until Plaintiff reached the age of majority, which is eighteen. S.C. Code Ann. § 15-3-40(1). In applying the statute of limitations, the statute, is tolled if the plaintiff is under a disability as set forth in S.C. Code Ann. § 15-3-40.

Section 15-3-40 provides as follows:

If a person entitled to bring an action ... under Chapter 78 of this title ... is at the time the cause of action accrued either:

(1) within the age of eighteen years; or

(2) insane;

the time of the disability is not a part of the time limited for the commencement of the action, except that the period within which the action must be brought cannot be extended:

(a) more than five years by any such disability, except infancy; nor

(b) *in any case longer than one year after the disability ceases.*

See § 15-3-40 (emphasis added).

Recently, the United States District Court for the District of South Carolina held that pursuant to this statute, the limitations period cannot be extended any longer than one year after the disability, here, infancy, ceases. *Lail v. Hartness*, 2012 WL 3583983 at *1 (D.S.C. August 17, 2012). Plaintiff turned eighteen on December 14, 2002. Based on the *Lail* decision, the statute of limitations ran on December 14, 2003.

Plaintiff contends in the present case, however, that he “did not know or understand that the Family Court had issued an order for [him] to be placed in a marine institute or similar group setting upon [his] release from the DJJ until June 6, 2011.” [See Initial Complaint filed March 28, 2013, paragraph II (7)].

Although the April 2000 Family Courts say otherwise, even if this Court assumes that Plaintiff was not present when the court issued its dispositional order, Plaintiff in the present case has had more than adequate time to reasonably discover the Family Court Orders issued in April 2000 regarding his disposition.

For purposes of the arguments of Defendants DJJ, JPB, DSS, and The State of South Carolina, these Defendants do not concede Plaintiff’s allegations against them as true, but merely reference them within the context of Defendants’ motion to dismiss. Plaintiff, in the present situation, reasonably ought to have discovered, in “exercise of reasonable diligence” as defined by the South Carolina Supreme Court, these issues long before his filing of the initial Complaint on March 28, 2013. In this case, the Plaintiff had ample time to act with some promptness where the facts and circumstances of an injury place a reasonable person of “common knowledge and experience” on notice that a claim against another party might exist. Indeed, **the fact that the**

injured party may not comprehend the full extent of the damage is immaterial. *Id.*
(*emphasis added*).

The Family Court April 2000 Orders state that Plaintiff was present for the dispositional order. Even if he were not present, Plaintiff is entitled to his own court records. Plaintiff should have discovered these alleged issues either upon his release from DJJ in December 2001, or during his pending criminal charges for armed robberies beginning in June 2002, or shortly thereafter, such as upon his guilty plea before The Honorable Edward Miller on November 5, 2003. See Indictment Number 2002GS2309235, Case Number H149191. Any of these potential dates go back almost ten (10) years before the filing of his initial Complaint on March 28, 2013.

As set forth in the analysis above, even if the discovery rule applies and Plaintiff did not discover any potential “wrongful” conduct or a possible cause of action against Defendants DJJ, JPB, DSS, and The State of South Carolina until after his eighteenth birthday, the Plaintiff had ample time to act with some promptness – long before the filing of his initial Complaint on March 28, 2013. In any event, the facts and circumstances of a possible injury as set forth in this case place a reasonable person of “common knowledge and experience” on notice – many years ago - that a claim against another party might exist. Indeed, the fact that he may not comprehend the full extent of the damage is immaterial, as set forth in the case law above.

Plaintiff in this case admits that he possesses a high “level of intelligence” and “ability of legal savvy.” [See Amended Complaint filed June 21, 2013, paragraph (16)]. Plaintiff has had more than adequate time and ability to discover what he now alleges, and for which two Court Orders state he was present. Thus, Plaintiff in this case could be held to any even higher standard. “A statute of limitations has been defined as the action of the state in determining that

after the lapse of a specified time a claim *shall not be enforceable in a judicial proceeding.*” See *Fillinghame v. SCDC*, 2002 WL 181497 (S.C. Admin. Law. Judge. Div. 2002), citing 51 Am. Jur. 2d Limitation of Actions § 2 (1970)(*emphasis added*).

Nonetheless, Plaintiff claims in his Complaint and Amended Complaint that he did not know or understand that the Family Court had issued an order for [him] to be placed in a marine institute or similar group setting upon [his] release from the DJJ until June 6, 2011.” [See Initial Complaint filed March 28, 2013, paragraph II(7) and See Amended Complaint filed June 21, 2013, paragraph (17)].

Plaintiff turned 18 on December 3, 2002. Plaintiff contends that he first learned of the alleged terms of the dispositional Order on June 6, 2011. Plaintiff filed his initial complaint in this case on March 28, 2013. Plaintiff filed his Amended Complaint on June 21, 2013. Thus, even accepting as fact Plaintiff’s contention, Plaintiff Booker’s claims remain time-barred as a matter of law pursuant to S.C. Code Ann. § 15-3-40.

Pursuant to S.C. Code Ann. § 15-3-40, Plaintiff’s action could only have been filed within one year of June 6, 2011 – which would be, at most, until June 6, 2012. Plaintiff waited until March 28, 2013, to file this initial lawsuit, and until June 21, 2013, to file his Amended Complaint. The Plaintiff’s claim is barred, regardless of whether Plaintiff’s claims of his actual reading of the dispositional order on June 6, 2011, are determinative. The one-year repose provision of Section 15-3-40, the language “after the disability ceases” operates as an absolute bar and constitutes an outer limit beyond which liability no longer exists. Accordingly, Plaintiff’s lawsuit is outside of any possible limitations period or statute of repose. See *Lail v. Hartness*, 2012 WL 3583983 (D.S.C. August 17, 2012); *Miller v. Dickert*, 259 S.C. 1, 190 S.E.2d 459 (1972); *Harrison v. Bevilacqua*, 354 S.C. 129, 580 S.E.2d 109 (2003).

The court, therefore, dismisses Defendants DJJ, JPB, DSS, and State of South Carolina's from this action.

b. Constitutionality of S.C. Code Ann. § 14-1-235

As against Defendant State of South Carolina, Plaintiff makes allegations relating to the constitutionality of S.C. Code Ann. § 14-1-235 regarding the appointment of an attorney to represent him in this civil action. Plaintiff raises a facial challenge to the constitutionality of Section 14-1-235 of the South Carolina Code of Laws, which provides that “[a] Judge, court, or court official shall not appoint an attorney to represent a party in a civil action unless the authority to make the appointment is provided specifically by statute.” Plaintiff alleges that the statute violates the separation of powers doctrine in that it “attempts to exercise ultimate authority over the inherent power of the court...to appoint attorneys to provide free representation, even though the party does not have a constitutional or statutory right to counsel.” All statutes are presumed constitutional and will, if possible, be construed so as to render them valid. *Horry County School Dist. v. Horry County*, 346 S.C. 621, 631, 552 S.E.2d 737, 742 (2001). “A legislative act will not be declared unconstitutional unless its repugnance to the constitution is clear and beyond a reasonable doubt. A legislative enactment will be declared unconstitutional only when its invalidity appears so clearly as to leave no room for reasonable doubt that it violates a provision of the constitution.” *Joytime Distributors and Amusement Co., Inc. v. State*, 338 S.C. 634, 640, 528 S.E.2d 647, 650 (1999). The factual allegations of Plaintiff's Complaint, even when viewed in the light most favorable to the Plaintiff, are insufficient to meet the foregoing standard, and the statute is Constitutional on its face.

c. Tort Claims Act and the State

Moreover, the State of South Carolina is immune from civil suit in tort. Although the

doctrine of sovereign immunity was abolished as applied to the State and its subdivisions by the South Carolina Supreme Court's decision in *McCall v. Batson*, 285 S.C. 243, 329 S.E.2d 741 (1985), the South Carolina Tort Claims Act reinstates sovereign immunity except where specifically waived by the Act, which is a limited waiver of sovereign immunity. S.C. Code Ann. § 15-78-20(b); *Steinke v. S.C. Dep't of Labor, Licensing and Regulation*, 336 S.C. 373, 393, 520 S.E.2d 142, 152 (1999). The Tort Claims Act does not waive the sovereign immunity of the State of South Carolina. Specifically, the Tort Claims Act provides that the proper defendant is "only the agency or political subdivision for which the employee was acting." S.C. Code Ann. § 15-78-70(c). The State of South is an entity separate and distinct from its agencies and political subdivisions, is not liable for the actions or inactions of employees these separate entities. S.C. Code Ann. §15-78-60 (20). Therefore, the State of South Carolina is not a proper Defendant and is dismissed.

The court notes that some Defendants included other grounds within their arguments or motions for dismissal of Plaintiff's case. The court does not reach the other grounds for dismissal set forth by one or more Defendants, as this action against Defendants DJJ, JPB, DSS, and State of South Carolina's is dismissed. The court expresses no opinion as to the viability of these arguments.

NOW, THEREFORE, IT IS ORDERED:

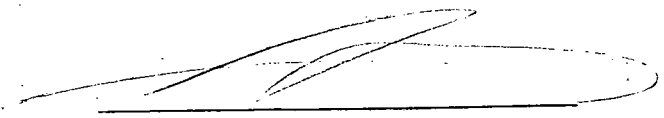
- 1) The Plaintiff's claim is time-barred as a matter of law;
- 2) Plaintiff did not exercise reasonable diligence that a cause of action had or may have arisen from the alleged conduct of Defendants DJJ, JPB, DSS, and State of South Carolina. Plaintiff did not act with some promptness in this case regarding any existence of a claim;

- 3) Regardless of whether Plaintiff exercised reasonable diligence that a cause of action had or may have arisen from the alleged conduct of Defendants DJJ, JPB, DSS, and State of South Carolina; the one-year repose provision of Section 15-3-40 (the language "after the disability ceases") operates as an absolute bar and constitutes an outer limit beyond which liability no longer exists and this action cannot be filed. Plaintiff did not file his suit until more than one-year from June 6, 2011 (the date on which he claims he first learned of the April 2000 order); Plaintiff filed this lawsuit on March 28, 2013, and filed his amended complaint on June 21, 2013;
- 4) Thus, Defendants DJJ, JPB, DSS, and State of South Carolina are dismissed in full from this action;
- 5) Plaintiff's motion for the court to appoint an attorney to represent him in this action is denied. The factual allegations of Plaintiff's Complaint, even when viewed in the light most favorable to the Plaintiff, are insufficient to meet the foregoing standard, and the statute is Constitutional on its face;
- 6) The State of South Carolina is not a proper Defendant and also is dismissed for that reason.

Accordingly, the Defendants DJJ, JPB, DSS, and State of South Carolina are dismissed from Plaintiff's entire case against them, as set forth in both the initial Complaint and Amended Complaint.

AND IT IS SO ORDERED.

January , 2014
Greenville, South Carolina


Robin B. Stilwell