

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

JUDGMENT IN A CIVIL CASE

CASE NUMBER: 2013CP4006806

Joseph Thomas

John Doe

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 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
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

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 19th day of June, 2014 to attorneys of record or to parties (when appearing pro se) as follows:

Joseph Thomas  
ATTORNEY(S) FOR THE PLAINTIFF(S)

David Allan DeMasters  
ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter \_\_\_\_\_

Clerk of Court Jeanette W. McBride

**RECEIVED**  
JUL 23 2014

**SC Court of Appeals**

**SCANNED**

STATE OF SOUTH CAROLINA )

IN THE COURT OF COMMON PLEAS )

COUNTY OF RICHLAND )

Civil Action Number: 2013-CP-40-06806 )

Joseph Thomas, )

Plaintiff, )

v. )

David A. Adams, an individual, Richland )  
County Sheriff Leon Lott; John Doe, unknown )  
alleged purchaser of property of Plaintiff, )

Defendants. )

**RECEIVED**  
JUL 23 2014

**SC Court of Appeals**

ORDER OF DISMISSAL

JEANETTE W. McDONALD  
C. P. & G. S.

2014 JUN 19 PM 12:02

RICHLAND COUNTY  
FILED

THIS MATTER COMES BEFORE THE COURT pursuant to a motion to dismiss filed on behalf of Defendants Adams and Lott. A hearing on this motion was held on April 3, 2014, at the Richland County Judicial Center, Columbia, South Carolina. Present at the hearing was David A. DeMasters, Esquire, on behalf of Defendants Adams and Lott. Also present at the hearing was the *pro se* Plaintiff Joseph Thomas. These Defendants' motions are made in part pursuant to Rule 12 of the South Carolina Rules of Civil Procedure and is dispositive of all claims against these Defendants as asserted by Plaintiff. Upon review of the record, the pleadings, and oral arguments, this Court now rules. Based upon the following discussion, this Court hereby dismisses Plaintiff's Complaint with prejudice as to these Defendants.

**STANDARD OF REVIEW**

In ruling on a motion to dismiss, the Court must view the pleadings in the light most favorable to the nonmoving party. *Gray v. State Farm Auto Ins Co.*, 327 S.C. 646, 651, 491 S.E.2d 272, 274-75 (Ct. App. 1997). A motion to dismiss must be granted if the facts and inferences reasonably deductible from them show that the plaintiff cannot prevail on any theory of the case. *Id* In considering a motion to dismiss pursuant to Rule 12(b)(6) of the South Carolina Rules of

Civil Procedures, the Court must base its ruling solely upon the allegations set forth on the face of the plaintiff's complaint. *Doe v Greenville County Sch Dis*, 375 S.C. 63, 66-67, 651 S.E.2d 305, 307 (2007). A 12(b)(6) motion will not be granted if the facts alleged and the inferences therefrom would entitle the plaintiff to any relief on any theory. *Carnival Corp v Historic Ansonborough Neighborhood Ass'n*, 407 S.C. 67, 753 S.E.2d 846, 850 (2014).

### **BACKGROUND**

Taking the facts in a light most favorable to Plaintiff, he alleges in his Complaint, *inter alia*, that on July 1, 2011, Plaintiff Joseph Thomas and Kelly Ridgell purchased a piece of property located at 736 Heyward Street, Columbia, South Carolina, from Mary Landing. Plaintiff and Landing then sent written notices of the change of ownership in the property to the Richland County Treasurer's Office.<sup>1</sup>

In November of 2011, Landing received a property tax bill from the Richland County Treasurer's Office, which Landing responded to by mailing a letter to the Richland County Treasurer's Office stating that she had sold the property to Plaintiff and Ridgell. Landing also included the mailing address of Plaintiff and Ridgell, which was different than the address to the subject property.

On or around August 7, 2012, Plaintiff discovered a notice taped to the subject property informing him that the property was going to be sold via the Richland County Delinquent Tax Sale because the taxes have not been paid on the subject property. The notice informed Plaintiff that the subject property would be sold at an auction on or around December 3, 2012 unless the

---

<sup>1</sup> At the hearing, Plaintiff conceded the following: (a) that he never registered the deed at the Richland County Register of Deed's Office; and (b) that he made no attempts to notify the Richland County Register of Deed's Office that the property had been sold and that Landing was no longer the owner of the property. Pursuant to South Carolina law, a valid conveyance occurs when it is recorded in the office of the register of deeds or clerk of court of the county in which the real property is situated. *See* S.C. Code Ann. § 30-7-10.

outstanding tax bill was paid. The notice listed Landing as the owner of the property. On or about February 25, 2013, Landing received notice that the subject property had been sold at a tax sale. Landing was further informed that the redemption period for the subject property had begun to run and was informed that if the subject property was not redeemed by December 4, 2013, pursuant to South Carolina law the redemption period would close and the subject property would be forfeited.

On or about November 6, 2013, Plaintiff brought suit against these moving Defendants, which subsequently filed an Answer and move to dismiss pursuant to Rule 12(b), SCRPC as well as on grounds that these Defendants are immune from suit pursuant to pertinent portions of the South Carolina Tort Claims Act, South Carolina Code Ann. § 15-78-10 *et. seq.* (1976) as amended.

### DISCUSSION

#### *A. Defendant Lott*

In Plaintiff's Complaint, he asserts a claim against the Defendant Sheriff seeking to enjoin the Richland County Sheriff's Department from interfering with the subject property or attempting to confiscate the subject property based upon the subject property being sold at the tax sale. This Court finds that such a claim is not justiciable and that there is no basis in statute or common law for the relief requested by Plaintiff against Defendant Lott.<sup>2</sup> As such, Defendant Lott is entitled to be summarily dismissed from this action.

---

<sup>2</sup> At the hearing, Plaintiff advised the Court that the taxes for the subject property had been paid and that the subject property was not forfeited. Given Plaintiff's concession, counsel for Defendant Lott also argued that Plaintiff's claims against Defendant Lott are therefore moot given that the tax obligations have been satisfied and the property is no longer subject to the tax sale. This Court agrees.

***B. Defendant Adams***

The South Carolina Tort Claims Act (SCTCA), S.C. Code Ann., § 15-78-10, *et seq.*, provides various immunities for employees of governmental actors. Chief among these immunities is the absolute immunity provided to individual employees contained within S.C. Code Ann., § 15-78-70. Pursuant to subsection 15-78-70(a), individual employees are not subject to suit as personal defendants for the alleged tort claims committed within the course and scope of their employment.

Plaintiff has named Defendant Adams as an individual defendant in this case. The record reflects that Defendant Adams is the duly elected Treasurer of Richland County. It is evident from the record that Defendant Adams was working within the course and scope of his official duties as the duly elected Treasurer of Richland County. As a result, Defendant Adams is entitled to be summarily dismissed from this action.

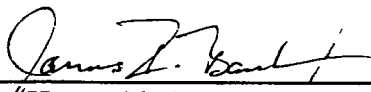
**CONCLUSION**

This Court finds that Plaintiff's Complaint, on its face and in taking the allegations in the complaint most favorable to Plaintiff, fails as a matter of law to state a cause of action against these Defendants. As such, the Court agrees with these Defendants that the Plaintiff's Complaint should be dismissed pursuant to Rule 12(b), SCRPC.

**IT IS THEREFORE ORDERED** that the motion to dismiss on behalf of these Defendants be **GRANTED** and that the Plaintiff's Complaint as to these Defendants be **DISMISSED WITH PREJUDICE**.

**IT IS SO ORDERED.**

Dated: June 6, 2017  
Columbia, South Carolina

  
The Honorable James R. Barber, III  
Presiding Circuit Court Judge

COMPANIMATE OF SERVICE

I certify that on this date, July 23, 2014, the following documents were sent to the named parties ~~as listed herein~~.

1) SC Court of Appeals (certified mail) 1015 Sutter St, Colg, 95607  
Original made w/ copy of order

2) Richard County, Clerk of Court - 1701 Main St, Colg, SC 29201  
Notice of appeal & order

3) Deane A. J. Masters - P.O. Box 8568, Columbia, SC 29222  
copy of notice of appeal & order

4) Kenneth Stone N. Barber, 5/6 1711 Main St, Colg, SC  
copy of notice of appeal & order w/ cert of mailing

Joseph James  
Joseph James  
July 23, 2014

STATE OF SOUTH CAROLINA, )

COUNTY OF Court of Appeals )

Joseph Thomas )  
Plaintiff )

vs )

David A. Adams, et al )  
Defendant. )

IN THE  FAMILY COURT  
 COURT OF COMMON PLEAS  
 MAGISTRATE COURT  
 SC Court of Appeals  
JUDICIAL CIRCUIT

MOTION AND AFFIDAVIT TO  
PROCEED IN FORMA PAUPERIS

FILE NO. 2013-CP40-06806

I, Joseph Thomas: ~~McQuarters~~ being duly sworn, state that I am the Plaintiff and that I do not have the funds available to pay the costs of filing and service in the present matter. I hereby request that the complaint be filed and service made without costs.

Sworn to and Subscribed before me  
this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Notary Public for South Carolina

My Commission expires \_\_\_\_\_

Joseph Thomas  
Signature of Plaintiff or  
Person Filing Complaint on Behalf of  
Plaintiff



*Stated under penalty of perjury*  
28 U.S.C. § 1746

ORDER

Leave  (granted) /  (denied) to proceed in forma pauperis

Dated: \_\_\_\_\_, 2013

\_\_\_\_\_  
JUDGE/CLERK OF COURT

\_\_\_\_\_  
South Carolina

NOTICE TO PLAINTIFF: The Court may assess costs against either party at hearing

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF RICHLAND )

IN THE COURT OF COMMON PLEAS

Joseph Thomas )  
 )  
Plaintiff )

FINANCIAL DECLARATION  
IN SUPPORT OF  
IN FORMA PAUPERIS REQUEST

-vs-

David H. Adams, et al. )  
 )  
Defendant )

OF \_\_\_\_\_

Case # 2013-CP40-06806

|||  
GROSS MONTHLY INCOME FROM:

Salary and wages (including commissions, bonuses and overtime) ..\$ \_\_\_\_\_  
Pensions and Retirement .....\$ \_\_\_\_\_  
Social Security ..... 560<sup>00</sup> me / 260<sup>00</sup> wife .....\$ 820.00  
Disability and Unemployment Insurance .....\$ \_\_\_\_\_  
Public Assistance (AFDC payments, etc.) .....\$ \_\_\_\_\_  
Child/Spousal support (prior marriage, etc.) .....\$ \_\_\_\_\_  
Dividends and Interest .....\$ \_\_\_\_\_  
Rents .....\$ \_\_\_\_\_  
All other sources (specify) \_\_\_\_\_ \$ \_\_\_\_\_  
\_\_\_\_\_ \$ \_\_\_\_\_  
\_\_\_\_\_ \$ \_\_\_\_\_  
**TOTAL MONTHLY INCOME.....\$ 820.00**

||| ITEMIZE DEDUCTIONS FROM GROSS INCOME:

||| Income Taxes (State and Federal) .....\$ \_\_\_\_\_  
Social Security .....\$ \_\_\_\_\_  
Disability Insurance .....\$ \_\_\_\_\_  
||| Medical or other insurance .....\$ \_\_\_\_\_  
Union or other dues .....\$ \_\_\_\_\_  
Retirement or Pension Fund .....\$ \_\_\_\_\_  
Savings plan .....\$ \_\_\_\_\_  
Other (specify) \_\_\_\_\_ \$ \_\_\_\_\_  
\_\_\_\_\_ \$ \_\_\_\_\_  
\_\_\_\_\_ \$ \_\_\_\_\_  
**TOTAL DEDUCTIONS.....\$ \_\_\_\_\_**

**NET MONTHLY INCOME.....\$ 820.00**

ESTIMATED MONTHLY EXPENSES:

Rent (residence) .....	\$	_____
Note or mortgage payments (residence) .....	\$	_____
Real property taxes (residence) .....	\$	_____
Real property insurance (residence) .....	\$	_____
Maintenance (residence) .....	\$	_____
Food and household supplies .....	\$	340.00
Utilities .....	\$	300.00
Telephone .....	\$	160
Laundry and cleaning .....	\$	_____
Clothing .....	\$	_____
Medical .....	\$	100.00
Dental .....	\$	_____
Insurance (Life, Health, Accident, etc.) .....	\$	_____
Child Care .....	\$	_____
Payment of child/spousal support (prior marriage, etc.) .....	\$	_____
School .....	\$	_____
Entertainment .....	\$	_____
Incidentals .....	\$	_____
Auto expenses (Insurance, gas, oil, etc.) .....	\$	200.00
Auto payments .....	\$	_____
Other installment payment(s) (insert total here and itemize below) ..	\$	_____

Creditors Name      For      Monthly Pmt      Balance

_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Other (specify) _____	\$	_____
_____	\$	_____
_____	\$	_____

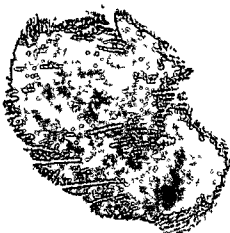
**TOTAL EXPENSES** ..... \$ 960.00

Other debts and obligations **NOT** payable in monthly installments:

<u>Creditors Name</u>	<u>For</u>	<u>Date Payable</u>	<u>Balance</u>
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____

ALL PROPERTY I OWN:

Cash on hand .....	\$	<u>58<sup>00</sup></u>
Money in checking accounts .....	\$	<u>—</u>
Money in saving accounts .....	\$	<u>—</u>
Money in credit union .....	\$	<u>—</u>
Money in any other accounts or deposits .....	\$	<u>—</u>
Retirement or pension fund .....	\$	<u>—</u>
Life Insurance cash value .....	\$	<u>—</u>
Value of any stocks and/or bonds .....	\$	<u>—</u>
Value of real property .....	\$	<u>—</u>
Value of all other property ..... <i>auto</i>	\$	<u>3805.06</u>
<b>TOTAL PROPERTY .....</b>	<b>\$</b>	<b><u>3850<sup>00</sup></u></b>



*Joseph Thomas Miller*  
Signature *rights reserved*

7-22-14  
Date

*stated under penalty of perjury  
28 USCA §1746*

Subscribed and sworn before me this  
\_\_\_\_\_ Day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public for South Carolina

My commission expires: \_\_\_\_\_