

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS)

COUNTY OF MCCORMICK)

CASE NO. 2012- CP-35-0102)

Shaheen Cabbagestalk, #295567,)

Plaintiff,)

vs.)

South Carolina Department of Corrections,)

Defendant.)

**MOTION AND ORDER INFORMATION
FORM AND COVERSHEET**

Plaintiff's Attorney: <i>Pro se</i> Shaheen Cabbagestalk (#295567) Lee Correctional Institution 990 Wisacky Highway Bishopville, SC 29010	Defendants' Attorney: James A. Stuckey Bar No. 5413 Address: Stuckey Law Offices, LLC 123 Meeting Street Charleston, South Carolina 29401 Phone: 843-577-9323 Fax: 843-577-3635 E-mail: jstuckey@stuckeylaw.com Other:
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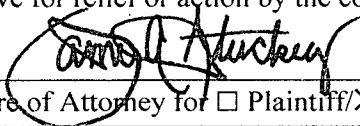
MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and II)
 FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)
 PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

SECTION I: Hearing Information

Nature of Motion: Motion for Summary Judgment
 Estimated Time Need: 15 minutes
 Court Reporter Needed: YES/ NO

SECTION II: Motion/Order Type

Written motion attached
 Form Motion/Order
 I hereby move for relief or action by the court as set forth in the attached proposed order.


 Signature of Attorney for Plaintiff/ Defendant

May 10, 2014
 Date submitted

SECTION III: Motion Fee

PAID - AMOUNT: \$ 25.00
 EXEMPT:

- Rule to Show Cause in Child or Spousal Support
- Domestic Abuse or Abuse or Neglect
- Indigent Status State Agency v. Indigent Party
- Sexually Violent Predator Act Post-Conviction Relief
- Motion to Stay in Bankruptcy
- Motion for Publication Motion for Execution (Rule 69, SCRCP)
- Proposed order submitted at request of the court; or,
 reduced to writing from motion made in open court per judge's instructions

Name of Court Reporter: _____ Other: _____

<p align="center">JUDGE'S SECTION</p> <input type="checkbox"/> Motion Fee to be paid upon filing of the attached order. <input type="checkbox"/> Other:	JUDGE CODE _____ Date: _____
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CLERK'S VERIFICATION

Collected by: _____ Date File: _____
 MOTION FEE COLLECTED: \$ _____
 CONTESTED AMOUNT DUE: \$ _____

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 SC Court of Appeals

Judge Russo Didn't grant Summary Judgment

Level 2 / Brevenly Preprocess

STATE OF SOUTH CAROLINA)
COUNTY OF MCCORMICK)

IN THE COURT OF COMMON PLEAS
Case No. 2012-CP-35-0102

SHAHEEN CABBAGESTALK #295567,)

Plaintiff,)

-versus-)

SOUTH CAROLINA DEPARTMENT)
OF CORRECTIONS,)

Defendants)

**DEFENDANT'S MOTION
FOR SUMMARY JUDGMENT**

Defendant SOUTH CAROLINA DEPARTMENT OF CORRECTIONS moves under Rule 56, SCRPC, for Summary Judgment in its favor, and against plaintiff, on the ground that there are no genuine issues of material fact, and it is entitled to judgment as a matter of law, because:

1. Defendant SCDC is a governmental entity under the SCTCA and is not liable for a loss resulting from: . . . (25) responsibility or duty including but not limited to supervision, protection, control, confinement, or custody of any . . . prisoner, inmate, or client of any governmental entity, except when the responsibility or duty is exercised in a grossly negligent manner," S.C. Code § 15-78-60(25), and such was not exercised in any "grossly negligent manner" concerning plaintiff.
2. Defendant SCDC is a governmental entity under the SCTCA and "is not liable for a loss resulting from: . . . (5) the exercise of discretion or judgment by the governmental entity or employee or the performance or failure to perform any act or service which is in the discretion or judgment of the governmental entity or

Conflict with SCDC statements (what my practice @ Safety @ Staff @ awards @ P @ Fiscal

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employee." S.C. Code § 15-78-60(5)

- 3. Defendant SCDC is a governmental entity under the SCTCA and "is not liable for a loss resulting from: . . . (2) administrative action or inaction of a legislative, judicial, or quasi-judicial nature." S.C. Code § 15-78-60(2).

Transfer of plaintiff within the prison system, or setting or downgrading his custody status, or determining his housing within the system, will not be subject to judicial review as long as the actions were not arbitrary, capricious, or from personal bias or prejudice, and such were not concerning plaintiff.

Plaintiff has not pleaded facts sufficient to constitute a cause of action for medical malpractice, nor has he established the predicate therefor.

Plaintiff has not complied with the appropriate and necessary grievance procedures in order to pursue this action.

A final judgment on the merits of some of plaintiff's purported claims having been determined and decided in previous proceedings such is now conclusive and determinative of plaintiff's rights in this action and plaintiff is barred herein by the doctrine of res judicata.

- 8. The plaintiff brought and instituted a legal action concerning the matters alleged against the defendant in this action, which were decided and resolved adversely to plaintiff and in support of the defendant, and plaintiff's claims and issues raised herein are thus precluded by the legal doctrines of claim and issue preclusion and

(collateral estoppel.)

This motion for summary judgment may be supported by affidavits to be served, any

See request
By J. Jimenez
About Francisco
TO remain in F2
at this time
Personal Bias, prejudice
836 to 809
ive initials
"FM"

See Administrative
Law Center
papers
shred
Simply

Frivious

(Footwear) Security turn down
C. Balle problem) Still in pain
Could've been Better with shoes
P. muser wear security
medical need
Approved by Doctor

Right to
Redress courts
with grievances

↓ AFFIDAVIT
Don't want to do
that 10 windows -2-
O. major lied changed from 836 to 809 security level 2 requirement
O. DHO send several holes
pretense 4d. respect only 3 really?
O. J. Jimenez affidavit
Wes
O. medical (Shoes)
(Balle) (Balle)
"OVER" Security major muser
write up 836/809
O. Mr. William Balle
AFFIDAVIT
Mr. Balle
(Albert
Givens)

depositions taken, and any other proper evidence admissible under Rule 56, SCRCP.

Respectfully moved,



JAMES A. STUCKEY
ALISSA R. COLLINS
STUCKEY LAW OFFICES, LLC
123 Meeting Street
Charleston, SC 29401
843-577-9323
Email: jstuckey@stuckeylaw.com
Facsimile: 843-577-3635

March 10, 2014
Charleston, South Carolina

Attorney for Defendant, SCDC

STATE OF SOUTH CAROLINA)
)
COUNTY OF MCCORMICK)

IN THE COURT OF COMMON PLEAS
Case No. 2013-CP-35-102

SHAHEEN CABBAGESTALK #295567,)
)
Plaintiff,)

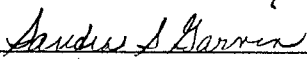
-versus-

CERTIFICATE OF SERVICE

SOUTH CAROLINA DEPARTMENT)
OF CORRECTIONS,)
)
Defendants)

The undersigned hereby certifies that a true copy of DEFENDANT'S MOTION FOR SUMMARY JUDGMENT was served upon *pro se* plaintiff, Shaheen Cabbagestalk (#295567), by mailing a copy of same properly addressed, via First Class US Mail, with sufficient postage affixed thereto, on March 10, 2014, to:

Shaheen Cabbagestalk (#295567)
Lee Correctional Institution
990 Wisacky Highway
Bishopville, SC 29010



Sandra S. Garvin

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