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FILED-CLERK OF COURT  
STATE OF SOUTH CAROLINA GREENVILLE CO. S.C. IN THE COURT OF COMMON PLEAS  
PAUL B. WICKENDINER

COUNTY OF GREENVILLE )

C.A. NO. 2014-CP-23-05661

2015 FEB 19 PM 2 53

George Cleveland, III, )

Plaintiff. )

v. )

Greenville County Sheriff's Office, )

Defendant. )

**ORDER GRANTING  
DEFENDANT'S MOTION TO DISMISS**

This matter comes before me by way of the Defendant's Motion to Dismiss pursuant to Rule 12 of the South Carolina Rules of Civil Procedure and South Carolina common law. The Defendant filed this Motion to Dismiss pursuant to Rule 12(b)(2), (4), (5) and (6) as well as other legal doctrines. Both parties submitted memoranda of law.

On January 27, 2014, the parties appeared before the Court for oral argument on the Defendant's motion. Chuck Turner appeared on behalf of the Defendant. The Plaintiff appeared pro se. The Court determined that it would entertain only the Defendant's motion regarding lack of personal jurisdiction, lack of service of process and insufficiency of process. The Court considered the oral arguments of counsel and Mr. Cleveland, the memoranda of law submitted by Mr. Cleveland and counsel for the Defendant, as well as the Rules of Civil Procedure and common law in reaching its decision. The Court finds that the Plaintiff failed to properly serve the named defendant, as well as individuals identified as Defendants in the body of his Complaint, and therefore grants the Defendant's Motion to Dismiss.

The Plaintiff filed a Summons and Complaint on October 14, 2014. In the caption of the Summons and Complaint, the Plaintiff identified only the Greenville County Sheriff's Office as a defendant in this action. In the body of the Complaint, the Plaintiff identified Barry Brown and

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David Weiner, investigators with the Greenville County Sheriff's Office as defendants. The Plaintiff filed a Certificate of Service with the Clerk of Court indicating that he had mailed the Summons and Complaint to all defendants at the Greenville County Sheriff's Office. The Plaintiff filed an Amended Complaint on November 5, 2014. On November 19, 2014, the Plaintiff mailed the Amended Complaint and Summons to the Defendant at 4 McGee Street, Greenville, South Carolina 29601. The Plaintiff provided no other proof of actual service upon the Defendants. During the course of the hearing, Mr. Cleveland agreed that he placed the Summons and Complaint in the United States Mail utilizing regular delivery.

The Court finds that the Plaintiff's attempt to serve the Greenville County Sheriff's Department and Investigators Brown and Weiner were insufficient pursuant to the requirements of Rule 4 of the South Carolina Rules of Civil Procedure. As such, this Court lacks personal jurisdiction over the Greenville County Sheriff's Office and Investigators Weiner and Brown.

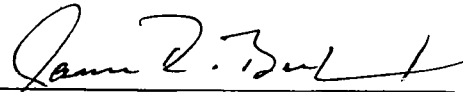
Rule 4(d)(6) of the South Carolina Rules of Civil Procedure sets forth service of process requirements upon a governmental subdivision. For a Plaintiff to properly serve a municipal corporation, county or other governmental or political subdivision, he must deliver a copy of the Summons and Complaint to the chief executive officer or clerk thereof or by serving the Summons and Complaint in the manner prescribed by statute for the service of a Summons and Complaint upon such governmental defendant. The Plaintiff did not properly deliver a copy of the Summons and Complaint to the Chief Executive Officer of Greenville County and did not serve the governmental entity in a manner prescribed by South Carolina statute. Accordingly, the Plaintiff's service of process attempt was insufficient as to the Greenville County Sheriff's Office.

Though Plaintiff violated Rule 10(a) of the South Carolina Civil Procedures when he failed to include the names of all parties in the title of his action, the Court also entertained whether the

Plaintiff properly served Investigators Brown and Weiner. Rule 4(d)(1) sets forth sufficient service methods for individual defendants. Rule 4(d)(5) sets forth valid process and service of process upon an officer of the State. While Rule 4 sets forth multiple acceptable methods of service, delivery by regular mail is not an acceptable method of process or service of process. As such, the Plaintiff's process attempts as to Brown and Weiner were also insufficient.

The Court finds that the Plaintiff has not met his burden of proof in establishing that the Court has personal jurisdiction in this matter. The Plaintiff's service and process attempts were insufficient. Accordingly, this Court grants the Defendant's Motion to Dismiss pursuant Rules 12(b)(2), 12(b)(4), 12(b)(5), and Rule 4 of the South Carolina Rules of Civil Procedure.

AND IT IS SO ORDERED.

  
James R. Barber, III, Judge

  
Greenville, SC

February 1, 2015



FILED-CLERK OF COURT  
GREENVILLE CO. S.C.

STATE OF SOUTH CAROLINA

JUDGMENT IN A CIVIL CASE

COUNTY OF GREENVILLE

CASE NO: 2014CP2305661

IN THE COURT OF COMMON PLEAS

**George Cleveland vs. Greenville County Sheriffs Office**

**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;  Statement of Judgment by the Court:

Dated at Greenville, South Carolina, this .

Court Reporter:

PRESIDING JUDGE -

This judgment was entered on the 19th day of February, 2015, and a copy mailed first class this 19th day of February, 2015, to attorneys of record or to parties (when appearing pro se) as follows:

George Cleveland #357770 Evans Correctional  
Institute 610 Hwy 9 West Bennettsville, SC 29512

Charles Franklin Turner Jr. Willson Jones Carter  
& Baxley, PA 872 S. Pleasantburg Dr. Greenville, SC  
29607

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Paul B. Wickensimer Greenville County Clerk Of Court  
- Clerk of Court

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**SC Court of Appeals**