

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS
FOR THE 13TH JUDICIAL CIRCUIT

BILLY JOE CARTRETTE,)
)
Plaintiff,)

Civil Action No. 2014-CP-23-599

vs.)

SOUTH CAROLINA DEPARTMENT OF)
CORRECTIONS,)
)
Defendant.)

**ORDER GRANTING THE
DEFENDANT'S MOTION TO
DISMISS THE PLAINTIFF'S
"COMPLAINT FOR
DECLARATORY JUDGMENT(S)"**

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSINGER
2015 MAR 27 PM 3:39

On Friday, February 13, 2015, the Court conducted a hearing at the Greenville County Courthouse during which it considered a motion to dismiss the Plaintiff's "Complaint for Declaratory Judgment(s)" ["Complaint"] filed by the Defendant, the South Carolina Department of Corrections ["the Department"].

The Plaintiff in this matter is Billy Joe Cartrette, an inmate currently incarcerated in the Department's custody, and he appears *pro se*. Outside counsel for the Department, Lake E. Summers, Esquire of Malone, Thompson, Summers & Ott, LLC, properly served the Department's motion upon the Plaintiff, and the Plaintiff further received adequate notice from the Court of its intent to conduct a hearing regarding the Department's motion.

During the February 13, 2015 hearing conducted by the Court, Mr. Summers appeared on the Department's behalf, and the Plaintiff appeared on his own behalf.

After considering the Plaintiff's Complaint, the Department's motion to dismiss, the Plaintiff's memorandum in opposition, argument offered by the Department's counsel, and argument by the *pro se* Plaintiff, the Court **GRANTS** the Department's motion.

I. PROCEDURAL HISTORY

A. BACKGROUND

The Plaintiff at one time voluntarily participated in a prison industries project operated by the Department at Ridgeland Correctional Institution. In the course of his participation in the aforementioned project, the Plaintiff disputed various aspects of the pay the Department remitted to him for his labor. In accordance with our Supreme Court's decision in *Wicker v. S.C. Dep't of Corr.*, 602 S.E.2d 56 (S.C. 2004), the Plaintiff filed an administrative grievance with the Department.

B. THE PLAINTIFF'S COMPLAINT AND OPPOSITION TO THE DEPARTMENT'S MOTION TO DISMISS

The Plaintiff filed his "Complaint for Declaratory Judgment(s)" on October 31, 2014, and, in paragraphs 2 and 3 of his complaint, the Plaintiff asserted as follows:

[The Plaintiff] filed a step 1 grievance which was denied; he filed a step 2 grievance appeal; it was denied so he filed a Step 3 which was an appeal to the [ALC]; it was granted in part. See [*South Carolina Department of Corrections v. Cartrette*, 694 S.E.2d 18 (S.C. Ct.App. 2010)].

[The Plaintiff] filed an appeal to the South Carolina Supreme Court. [*South Carolina Department of Corrections v. Cartrette*, 772 S.E.2d 805 (S.C. Sup. Ct. 2012)].

By a memorandum dated December 30, 2014, the Plaintiff opposed the Department's motion to dismiss his complaint, and, within the materials he filed in support of his opposition memorandum, the Plaintiff included copies of the opinions issued by both our Court of Appeals and our Supreme Court as he referenced them in his Complaint.

Our Court of Appeals issued its opinion concerning the Plaintiff's prison industries pay dispute on May 28, 2010. A review of the decision issued February 22, 2012 by our Supreme Court concerning the Plaintiff's prison industries pay dispute reveals that it dismissed the writ of

certiorari it had previously granted to review the Court of Appeals' decision as having been improvidently granted.

In paragraphs 4 and 5 of his instant Complaint, the Plaintiff further asserted as follows:

[The Plaintiff] alleges that he and other prisoners are judgment creditor(s) with reference thereto discussion set forth above and below herein as there were wage disputes and retention(s) grievance(s) filed against [the Department] in 2004 and 2005 and prior thereto which resulted in judgment(s) against [the Department] (judgment debtor) in March 2006 from the ALC, the Court of Common Pleas for Jasper County and [the] South Carolina Court of Appeals. [citation omitted].

[The Plaintiff] alleges that in accordance with judgment of [the] South Carolina Court of Appeals he is entitled to a declaratory judgment as far as the set prevailing wage(s) that this Court determines in the first cause of action herein where he worked in the capacity of furniture assemble although the furniture was not made of wood.

C. THE DEPARTMENT'S MOTION TO DISMISS

On December 29, 2014, the Department, by and through its outside counsel, filed its motion to dismiss the Plaintiff's instant complaint pursuant to South Carolina Rule of Civil Procedure ["SCRCP"] 12(b)(1).

In its motion, the Department asserted that the Court did not and does not possess the requisite subject matter jurisdiction over the Plaintiff's claims. Instead, as further asserted by the Department, the South Carolina Administrative Law Court ["ALC"] possesses subject matter jurisdiction over the entirety of the claims articulated by the Plaintiff in his instant Complaint.

In its motion and during the hearing conducted February 13, 2015, the Department argued that the opinion issued in 2010 by our Court of Appeals, and, for that matter, the opinion issued by our Supreme Court in 2012, completely negates any and all assertions articulated by the Plaintiff that the Court possesses subject matter jurisdiction over his claims.

Instead, as advocated by the Department in its motion and during the February 13, 2015 hearing, our Court of Appeals explicitly declared in its 2010 decision, 694 S.E.2d at 22, that the ALC is the only forum before which the Plaintiff's claims may be adjudicated:

In addition, we observe section 24-3-430(D) requires inmates receive the "prevailing wage" paid to their non-inmate peers for comparable work. **However, the question of the prevailing wage to which Cartrette is entitled has been remanded to the ALC for further proceedings.** We nonetheless have jurisdiction to consider whether the prevailing wage language of section 24-3-430(D) entitles Cartrette to overtime pay because the issue remanded concerned the proper hourly rate, only. However, because we have found section 24-3-315 resolves Cartrette's dispute, we need not address this argument. *See Futch v. McAllister Towing of Georgetown, Inc.*, 335 S.C. 598, 613, 518 S.E.2d 591, 598 (1999) (holding appellate court need not discuss remaining issues when decision on prior issue disposes of appeal).

For the foregoing reasons, we reverse the circuit court's decision concerning overtime pay and **remand this issue to the ALC** for a determination of whether the Department failed to pay Cartrette at the time-and-a-half rate for the hours he worked in excess of forty per week. In the event of such a failure, **we instruct the ALC** to determine the rate of compensation to which Cartrette was entitled, the number of overtime hours that were underpaid, and the amount the Department owes Cartrette for his labor. [emphasis supplied].

As observed by the Department in its motion, our Court of Appeals also remanded the determination of the "prevailing wage" paid by the Department for the labor the Plaintiff voluntarily provided to the prison industries project in question to the ALC. 694 S.E.2d at 23.

Finally, as the Department observed in its motion, our Court of Appeals, in the section of its opinion entitled "CONCLUSION," 694 S.E.2d at 23, reiterated its decision to remand the issues raised by the Plaintiff regarding overtime pay "to the ALC for additional proceedings consistent with this opinion."

II. ANALYSIS AND CONCLUSION

Succinctly stated, the Court agrees with the position articulated by the Department in both its motion and during the February 13, 2015 hearing, namely that it does not possess subject matter jurisdiction over the instant controversy between the parties.


The Court concludes that, contrary to any and all arguments he articulated in his "Opposition to Defendant's Motion to Dismiss" dated December 30, 2014 and during the February 13, 2015 hearing, all of the claims articulated by the Plaintiff in his instant "Complaint for Declaratory Judgment(s)," are, as explicitly declared by our Court of Appeals in its 2010 opinion, ripe for adjudication only by the ALC.

The Court further concludes that the Plaintiff possesses the opportunity to avail himself of the jurisdiction of the ALC upon the dismissal of his instant action. Toward that end, the Court respectfully urges the ALC to consider and adjudicate the Plaintiff's claims, as the Court of Appeals identified them in its 2010 opinion, as expeditiously as possible.

III. ORDER

Accordingly, under the provisions of SCRPC 12(b)(1), as well as S.C. Code Ann. §§ 15-53-10, *et. seq.*, the Court **GRANTS** the Department's motion and hereby **DISMISSES** the Plaintiff's "Complaint for Declaratory Judgment(s)" **WITH PREJUDICE**.

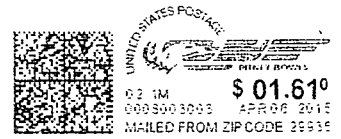
IT IS SO ORDERED.



J. CORDELL MADDOX, JR.
PRESIDING CIRCUIT COURT JUDGE

3/12, 2015
Anderson, South Carolina

BILLY JOE CARTRETTE, 122434
RCI, CA052A
P.O. BOX 2039
RIDGELAND, S.C. 29936



RECEIVED

APR 14 2015

SC Court of Appeals

RIDGELAND CORRECTIONAL
INSTITUTION

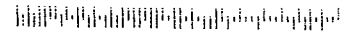
APR 6 2015

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29211

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FORM 4

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

JUDGMENT IN A CIVIL CASE
 CASE NUMBER 2014CP2305969
 FILED IN COURT
 GREENVILLE CO. S.C.
 PAUL B. WICKENSIMMER
 2015 MAR 5 PM 3 48

Billy Joe Cartrette

South Carolina
 Department Of
 Corrections

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: South Carolina Department of Corrections

Attorney for: Plaintiff Defendant
 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. See Page 2 for additional information.
- 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: Defendant's motion to dismiss the Plaintiff's "complaint for declaratory judgment" is granted. The Administrative Law Court has subject matter jurisdiction.

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 (List amount(s) below)

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.

J. Cordell Maddox, Jr.
 J. Cordell Maddox, Jr

2131

2/13/2015

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

JUDGMENT IN A CIVIL CASE

CASE NO: 2014CP2305969

FILED-CLEER OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSIMER
2015 MAR 29 PM 4:39

Billy Joe Cartrette vs. South Carolina Department Of Corrections

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;
 - Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
 - Bankruptcy;
 - 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 - J Cordell Maddox, Jr

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

Billy Joe Cartrette 122434 Ridgeland Correctional Institution P O Box 2039 Ridgeland, SC 29936

Lake Eric Summers Malone, Thompson, Summers & Ott LLC 339 Heyward Street, Suite 200 Columbia, SC 29201

Katherine Anne Phillips Malone, Thompson, Summers & Ott LLC 339 Heyward Street, Suite 200 Columbia, SC 29201-3002

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

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

Circuit Court Judge

Judge Code

Date

For Clerk of Court Office Use Only

This judgment was entered on ³⁻⁵⁻¹⁵, and a copy mailed first class or placed in the appropriate attorney's box on ³⁻⁵⁻¹⁵, to attorneys of record or to parties (when appearing pro se) as follows:

Billy Joe Cartrette 122434 Ridgeland Correctional Institution
P O Box 2039 Ridgeland, SC 29936

Lake Eric Summers Malone, Thompson, Summers & Ott
LLc 339 Heyward Street, Suite 200 Columbia, SC 29201
Katherine Anne Phillips Malone, Thompson, Summers &
Ott LLC 339 Heyward Street, Suite 200 Columbia, SC 29201-
3002

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Paul B. Wickensimer

Court Reporter

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

★ ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
