

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

JUDGMENT IN A CIVIL CASE

CASE NUMBER: 2014CP4002517

Angelo #315014 Ham

South Carolina Dept of Corrections

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), SCRCP; Rule 41(a), SCRCP (Vol. Non-suit); Rule 43(k), SCRCP (Settled); Other _____
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRCP; 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 _____

RICHLAND COUNTY
FILED
MAR 31 PM 3:00
CLERK OF COURT

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 PUBLIC 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 31 March 2015 to attorneys of record or to parties (when appearing pro se) as follows:

Angelo #315014 Ham

G. Murrell Smith Jr.

Angelo #315014 Ham

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter _____

Clerk of Court _____

Janette Whitebride

STATE OF SOUTH CAROLINA)
)
 COUNTY OF RICHLAND)
 Angelo Ham, #315014,)
)
 Plaintiff,)
)
 v.)
)
 South Carolina Department of)
 Corrections,)
)
 Defendant.)
 _____)

IN THE COURT OF COMMON PLEAS
 FIFTH JUDICIAL CIRCUIT
 CASE NO.: 2014-CP-40-2517

ORDER STRIKING PUNITIVE DAMAGES

RICHLAND COUNTY
 FILED
 2015 MAR 30 PM 1:14
 JENNIFER M. MCBRIDE
 C.C.P. & G.S.

This matter was before the Court pursuant to a Notice of Motion and Motion to Strike pursuant to Rule 12(f), filed on June 10, 2014 by the Defendant. The Defendant moved to strike the Plaintiff's request for punitive damages pursuant to S.C. Code Annotated § 15-78-120(b) as the South Carolina Tort Claims Act does not allow an award of punitive or exemplary damages.

The Plaintiff's Complaint states that this matter was brought pursuant to the South Carolina Tort Claims Act. Therefore, punitive damages are not allowed by the South Carolina Tort Claims Act. Thus, it is appropriate to strike the punitive damage request of the Plaintiff pursuant to S.C. Code Annotated § 15-78-120(b).

Furthermore, this Court also grants the Defendant's Motion for Judgment on the Pleadings and for a Motion to Dismiss. Therefore, this Order does not supersede the dismissal of the Plaintiff's action.

NOW, THEREFORE, based upon the foregoing, it is hereby

ORDERED that the Defendant's Notice of Motion and Motion to Strike filed with this Court on June 10, 2014, be and hereby is granted as punitive damages are not available

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

Angelo Ham, #315014,)
)
Plaintiff,)
)
v.)
)
South Carolina Department of)
Corrections,)
)
Defendant.)
_____)

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT
CASE NO.: 2014-CP-40-2517

RECEIVED

APR 27 2015

SC Court of Appeals


CERTIFICATE OF SERVICE

RICHLAND COUNTY
FILED
2015 MAR 30 PM 1:14
JEANNETTE W. MORRIS
C.C.P. & G.S.

I, the undersigned employee of the law firm of Lee, Erter, Wilson, Holler & Smith, LLC, do hereby certify that I have this day served the below listed document, by personally depositing the same in the United States Post Office, postage prepaid, addressed to the following Pro Se Plaintiff:

DOCUMENT: Order Dismissing Plaintiff's Action and
Order Striking Punitive Damages

PRO SE PLAINTIFF: Angelo Ham, #315014
LCI/SMU #62
990 Wisacky Highway
Bishopville, SC 29010


Kathy E. Aldrich

Sumter, SC

March 25, 2015

SCANNED

RECEIVED

APR 27 2015

Angelo #315014 Ham

South Carolina Dept of Corrections

SC Court of Appeals

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. Nonstiff); 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 _____

FILED
2015 MAR 31 PM 3:11
RICHLAND COUNTY

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 PUBLIC 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.

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| | | \$ |
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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 31 March 2015 to attorneys of record or to parties (when appearing pro se) as follows:

Angelo #315014 Ham

G. Murrell Smith Jr.

Angelo #315014 Ham

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter _____

Clerk of Court _____

Janette W. McBride

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT
CASE NO.: 2014-CP-40-2517

Angelo Ham, #315014,)
)
Plaintiff,)

v.)

South Carolina Department of)
Corrections,)

Defendant.)

ORDER DISMISSING PLAINTIFF'S
ACTION

RICHLAND COUNTY
FILED
2015 MAR 30 PM 1:13
JEANNETTE W. MCCRIDE
C.C.P. & G.S.

This matter was before the Court pursuant to a Notice of Motion and Motion to Dismiss pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure as well as a Motion for a Judgment on the Pleadings pursuant to Rule 12(c) of the South Carolina Rules of Civil Procedure. Both Motions were filed on June 10, 2014.

The Plaintiff filed his Complaint alleging that the South Carolina Department of Corrections was negligent for not notarizing his patent application. As a result of this negligence, he requested an injunction ordering the Defendant to stop violating the South Carolina law, nominal damages, punitive damages and costs of the suit.

To prevail in a negligence action, a Plaintiff must demonstrate:

1. A duty of care owed by the Defendant to the Plaintiff;
2. A breach of that duty by negligent act or omission; and
3. Damage proximately resulting from the breach.

Platt v. CSX Transp. Inc., 379 S.C. 249, 258, 655 S.E.2d 631, 635 (Ct. App. 2008). Negligence is not actionable unless it is a proximate cause of the injuries and may be deemed a

proximate cause only without such negligence, the injury would not have occurred or could have been avoided. Hanselmann v. McCardle, 275 S.C. 46, 48, 267 S.E.2d 531, 533 (1980).

The Plaintiff's allegations that the Defendant failed to notarize a patent and/or trademark application fails to demonstrate any allegations of negligence. There is no duty of care owed to the Plaintiff to provide notary services for voluntary applications. Furthermore, there are no damages resulting from the Defendant's failure to notarize this application. Nominal damages are not allowed against governmental entities. Therefore, the Plaintiff has failed to state a cause of action to which relief can be granted against the Defendants.

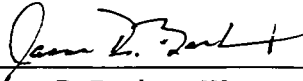
Furthermore, to the extent that the Plaintiff did state a cause of action, the Defendants are entitled to judgment on the pleadings as there is no duty of care owed to the Plaintiff as he alleged, nor a breach of that duty of care. Lastly, the Plaintiff was not damaged. Thus, the Defendant is entitled to a Motion on the Judgment on the Pleadings pursuant to Rule 12(c) of the South Carolina Rules of Civil Procedure.

NOW, THEREFORE, based upon the foregoing, it is hereby

ORDERED that the Plaintiff's Complaint is dismissed pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure for failure to state a cause of action. It is further

ORDERED that to the extent that the Plaintiff's Complaint can be construed to state a cause of action to which relief may be granted, the Defendant is entitled to Judgment on the Pleadings pursuant to Rule 12(c) of the South Carolina Rules of Civil Procedure.

AND IT IS SO ORDERED.



James R. Barber, III
Judge, Fifth Judicial Circuit
Court of Common Pleas

Columbia, South Carolina

March 19, 2015

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

Angelo Ham, #315014,)

Plaintiff)

v.)

South Carolina Department Of Corrections,)

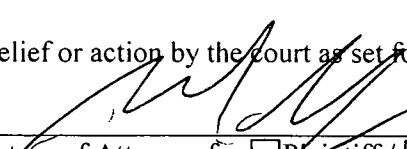
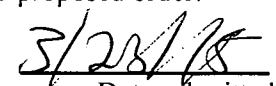
Defendant.)

IN THE COURT OF COMMON PLEAS

CASE NO.

2014-CP-40-2517

MOTION AND ORDER INFORMATION
FORM AND COVER SHEET

| | |
|--|--|
| Plaintiff's Attorney: Pro Se, Bar No. Address: phone: fax: e-mail: other: | Defendant's Attorney: G. Murrell Smith, Jr., Bar No. 66263 Address: P. O. Box 580, Sumter, SC 29151 phone: (803) 778-2471 fax: (803) 778-1643 e-mail: murrellsmith@leeandmoise.com other: |
| <input type="checkbox"/> MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) <input type="checkbox"/> FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) <input checked="" type="checkbox"/> PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III) | |
| SECTION I: Hearing Information | |
| Nature of Motion: Estimated Time Needed: _____ Court Reporter Needed: <input type="checkbox"/> YES / <input type="checkbox"/> NO | |
| SECTION II: Motion/Order Type | |
| <input type="checkbox"/> Written motion attached <input checked="" type="checkbox"/> 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 <input type="checkbox"/> Plaintiff / <input checked="" type="checkbox"/> Defendant |  Date submitted |
| SECTION III: Motion Fee | |
| <input type="checkbox"/> PAID - AMOUNT: <input checked="" type="checkbox"/> EXEMPT: <input type="checkbox"/> Rule to Show Cause in Child or Spousal Support (check reason) <input type="checkbox"/> Domestic Abuse or Abuse and Neglect <input type="checkbox"/> Indigent Status <input type="checkbox"/> State Agency v. Indigent Party <input type="checkbox"/> Sexually Violent Predator Act <input type="checkbox"/> Post-Conviction Relief <input type="checkbox"/> Motion for Stay in Bankruptcy <input type="checkbox"/> Motion for Publication <input type="checkbox"/> Motion for Execution (Rule 69, SCRPC) <input checked="" type="checkbox"/> 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: Mary Ann Nevers <input type="checkbox"/> Other: | |
| JUDGE'S SECTION <input type="checkbox"/> Motion Fee to be paid upon filing of the attached order. <input type="checkbox"/> Other: | _____ JUDGE CODE: _____ Date: _____ |
| CLERK'S VERIFICATION | |
| Collected by: _____ Date Filed: _____ | |
| <input type="checkbox"/> MOTION FEE COLLECTED: _____ <input type="checkbox"/> CONTESTED - AMOUNT DUE: _____ | |

 2015 MAR 30 PM 1:13
 FILED
 RICHLAND COUNTY
 CLERK OF COURT
 J. M. MOORE

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

Angelo Ham, #315014,)
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Plaintiff,)
)
v.)
)
South Carolina Department of)
Corrections,)
)
Defendant.)
_____)

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT
CASE NO.: 2014-CP-40-2517

CERTIFICATE OF SERVICE


RICHLAND COUNTY
FILED
2015 MAR 30 PM 1:13
JEANNETTE J. MORRIS
C.C.P. & S.S.

I, the undersigned employee of the law firm of Lee, Erter, Wilson, Holler & Smith, LLC do hereby certify that I have this day served the below listed document, by personally depositing the same in the United States Post Office, postage prepaid, addressed to the following Pro Se

Plaintiff:

DOCUMENT: Order Dismissing Plaintiff's Action and Order Striking Punitive Damages

PRO SE PLAINTIFF: Angelo Ham, #315014
LCI/SMU #62
990 Wisacky Highway
Bishopville, SC 29010


Kathy E. Aldrich

Sumter, SC
March 25, 2015