

S.C. Court of Appeals
V. Claire Allen, clerk
P.O. Box 116 29
Columbia, SC 29211

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MAY 22 2015

SC Court of Appeals

RE: Hayward v. SCIX et al.
Case No. 2015-000978

Dear Clerk Allen:

Enclosed please find A copy of my Summons and Complaint in the above referenced case. There is no order showing the complete caption. Also, I have enclosed A proof of service. Thank you for your assistance and your Attention to this matter.

cc: James V. McDade, Esquire
Attorney for Respondent

Date: May 15, 2015

Very truly yours,
Benjamin Hayward
pro-se Applicant

Benjamin Heyward #165514

Plaintiff

CIVIL ACTION COVERSHEET

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MAY 22 2015

-CP-

2014-CP-23-0285

FILED - CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSIMMER

2014 SEP 10 PM 3:54

vs.
Mr. Larry Cartledge; Mr. Williams; McGowan
and South Carolina Dept of
Corrections
(Please Print)

Defendant(s)

SC Court of Appeals

Submitted By: Benjamin Heyward #165514
Address: Lieber Correctional Institution
P.O. Box 205
Ridgeway, SC 29472

SC Bar #:

Telephone #:

Fax #:

Other:

E-mail:

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this cover sheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

- JURY TRIAL demanded in complaint. NON-JURY TRIAL demanded in complaint.
- This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- Contracts**
- Constructions (100)
 - Debt Collection (110)
 - Employment (120)
 - General (130)
 - Breach of Contract (140)
 - Other (199)

- Torts - Professional Malpractice**
- Dental Malpractice (200)
 - Legal Malpractice (210)
 - Medical Malpractice (220)
 - Previous Notice of Intent Case #
20 -CP- _____
 - Notice/ File Med Mal (230)
 - Other (299)

- Torts - Personal Injury**
- Assault/Slander/Label (300)
 - Conversion (310)
 - Motor Vehicle Accident (320)
 - Premises Liability (330)
 - Products Liability (340)
 - Personal Injury (350)
 - Other (399)

- Real Property**
- Claim & Delivery (400)
 - Condemnation (410)
 - Foreclosure (420)
 - Mechanic's Lien (430)
 - Partition (440)
 - Possession (450)
 - Other (499)

- Inmate Petitions**
- PCR (500)
 - Mandamus (520)
 - Habeas Corpus (530)
 - Other (599)

- Judgments/Settlements**
- Death Settlement (700)
 - Foreign Judgment (710)
 - Magistrate's Judgment (720)
 - Minor Settlement (730)
 - Transcript Judgment (740)
 - Lis Pendens (750)
 - Transfer of Structured Settlement Payment Rights Application (760)
 - Other (799)

- Administrative Law/Relief**
- Reinstate Driver's License (800)
 - Judicial Review (810)
 - Relief (820)
 - Permanent Injunction (830)
 - Forfeiture-Petition (840)
 - Forfeiture-Consent Order (850)
 - Other (899)

- Appeals**
- Arbitration (900)
 - Magistrate-Civil (910)
 - Magistrate-Criminal (920)
 - Municipal (930)
 - Probate Court (940)
 - SCDOT (950)
 - Worker's Comp (960)
 - zoning Board (970)
 - Administrative Law Judge (980)
 - Public Service Commission (990)
 - Employment Security Claim (991)
 - Other (999)

- Special/Complex/Other**
- Environmental (600)
 - Automobile Arb (610)
 - Judicial (620)
 - Other (699)
 - Pharmaceuticals (630)
 - Unfair Trade Practices (640)
 - Out of State Depositions (650)
 - Equal Predator (660)

Submitting Party Signature:

Benjamin Heyward

Date: 8/13/14

Notes: Filings in civil proceedings may be subject to sanctions pursuant to SC Ct. P. 20:11 and the South Carolina Employment Security Act, 2009, Chapter 13, § 10 of 2009.

State of South Carolina
County of Greenville
Benjamin Heyward #165514
Plaintiff

In The Court of Common Pleas
13 Judicial Circuit
Civil Action 2014ACP-23-04985

VS,

Mr. Larry Cartledge, warden;
Mr. Williams, Captain;
Mr. Church, Lieutenant; and
South Carolina Dept. of
Corrections
Defendants

Summons in A Civil Action

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SC Court of Appeals

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
PAUL B. WICKENSIMMER
2014 SEP 10 PM 3:54

To: South Carolina Dept of Correct, & S
4444 Broad River Rd
Columbia, SC 29211

A Lawsuit has been filed against you,

within 30 days after service of this summons on you, not counting the day you received it, you must serve on the plaintiff an answer to the attached Complaint. The answer must be served on the plaintiff, whose name and Address are below. If fail to respond, judgment by default will be entered against you for the relief demanded in the complaint, you also must file your answer with the Court.

Benjamin Heyward #165514
Lieber Corr Inst
P.O. Box 205
Aidjeville, SC 29472

Date: _____

Clerk Signature

State of South Carolina
County of Greenville
Benjamin Heyward #165514
Plaintiff

In The Court of Common Pleas
13 Judicial Circuit
Civil Act 2014-CP-23-04985

vs.

Mr. Larry Cartledge, Warden;
Mr. Williams, Captain;
Mr. Church, Lieutenant; and
South Carolina Dept. of
Corrections,
Defendants

First Amended Complaint
(Negligence)
(Intentional Infliction of Emotional Distress)
(Reckless Infliction of Emotional Distress)
(Breach of Trust/Fiduciary)
(Respondent Superior)

2014 SEP 10 PM 3:54
FREDERICK OF COURT
GREENVILLE CO. S.C.
FRANK WICKENSIMER

Parties

1. The plaintiff is An prisoner of the state of south Carolina in the custody of South Carolina Department of Corrections (SCDC). He is currently confined at Lieber Correctional Institution
2. The defendant, warden Cartledge, Captain (Capt) Williams, and Lieutenant (LT) Church is a citizen and resident of the County of Greenville, state of South Carolina, and at all times hereinafter mentioned in this complaint was acting individually and as agent, servant, and/or employee of perry correctional institution.
3. At all times mentioned in this Law suit the defendants acted and carried on its business by and through its agents, servant, and/or employees at perry correctional institution, with a mission to protect the safety and care of the plaintiff.
4. That each defendant is being sue in his individual capacity.
5. That the South Carolina Department of Corrections is a government entity being sued in its official capacity.

FACTS

1 of 4

6. That the plaintiff on March 21, 2013 was standing in line near the mail room window when he was accused by Ms. Buttrely of having his hand in his pants.
7. The plaintiff was handcuffed by Lieutenant Peay, and taken to the special management unit (SMU) by Lieutenant Peay, and Captain Williams.
8. The plaintiff was placed on crisis intervention status by Captain Williams and left there naked for 94 hours in the cold cell.
9. SCCC do not have A policy regarding an inmate to be placed on crisis intervention status for having his hand in his pants, or for an 854 public masturbation charge.
10. SCCC do not have A policy regarding an inmate to be placed on crisis intervention status for resisted when being handcuffed.
11. SCCC policy OP-22.12-29 states, inmate in the special management unit who are threat to self should be referred to the mental health staff provide on duty or to mental staff with placement of inmate in crisis intervention status.
12. The plaintiff was not placed on crisis intervention status for threat to self, but placed on crisis intervention status because he was accused of having his hand in his pants, and also, accused of resisted when being handcuffed.
13. SCCC policy HS-19.01 etc, states, The only item that the inmate will be allowed to have when placed on crisis intervention status, will be one security blanket.
14. The plaintiff was naked for 94 hours in the cold cell.
15. The plaintiff ate with his hands.
16. The plaintiff drink water from the sink with his hands.
17. The plaintiff was not able to brush his teeth.
18. The plaintiff was not able to take A Shower.

19. The plaintiff was denied toilet tissue.
20. The plaintiff was not able to clean the Cell.
21. The plaintiff was not able to read his Bible.
22. The plaintiff was not able to work on his case.
23. The plaintiff slept naked on A Metal Frame bed for four nights
24. As a result and because of the defendants negligent, willful, wanton and grossly negligent conduct, the plaintiff was severely injured.
25. The plaintiff endure, neck pain, left shoulder pain, left arm pain, and lower back pain for ten weeks.
26. The plaintiff suffered emotional distress, nervousness, worry, headaches, an head cold, and loss of sleep.
27. "That warden Larry Cartledge admitted in plaintiff step one grievance that plaintiff will be naked when placed on Control Cell, which is An violation of SCDC policy OP-22.12-29.2..."
28. SCDC policy OP-22.12-29.2, states, The special management unit supervisor will ensure that regular checks are conducted as required by this policy procedure and that the inmate is reviewed at 24 and 48 hours for possible release from the Control Cell. "The only items that the inmate will be allowed to have in the Control cell will be, one pair of underwear, and one security Blanket".

For The First Cause of Action
Against All Defendants
(negligence)

29. The above set forth facts and the allegations of the foregoing causes of action are made part of this first cause of action through incorporation by reference.

30. The above set forth injuries suffered by plaintiff were caused by the negligent, grossly negligent, willful and wanton acts of the defendants in one, more or all of the following particulars;

- (A) in failing to follow and violating the South Carolina minimum standards for correctional institution;
- (B) in failing to provide the appropriate supervision for plaintiff;
- (C) in failing to place plaintiff on crisis intervention status for 94 hours naked in a cold cell;
- (D) in failing to care of plaintiff eating condition;
- (E) in failing to care of plaintiff drinking condition;
- (F) in failing to care of plaintiff sleeping condition;
- (G) in failing to care of plaintiff mental condition;
- (H) in failing to care of plaintiff physical condition;
- (I) in failing to provide plaintiff with toilet tissue;
- (J) in failing to provide plaintiff with a paper gown;
- (K) in failing to provide plaintiff with a pair of underwear;
- (L) in failing to provide plaintiff with a security blanket;
- (M) in failing to provide plaintiff with his property after being placed on crisis intervention status for 72 hours;
- (N) in failing to take plaintiff off crisis intervention status after being placed on it for 72 hours;
- (O) in failing to follow and violating SCDL policy HS-19.01 etc, regarding crisis intervention status;
- (P) in failing to follow and violating SCDL policy, OP-22.12-29.2 regarding use of control cell.

31. The defendants behavior was rude and inappropriate and their actions was intolerable.

32. The defendants actions caused the plaintiff emotional distress so endure, that the plaintiff felt like committing suicide.

33. As a result and because of the defendants negligent, willful, wanton and grossly negligent conduct, the plaintiff was severely injured and damaged is entitled to actual, consequential and punitive damages.

For A Second Cause of Action

Against The Defendants

(intentional infliction of emotional distress)

34. The above set forth facts are made part of this second cause of action through incorporation by reference.

35. The defendants actions were negligent, grossly negligent, willful and wanton. Additionally, their actions directly caused the plaintiff physical pain and emotional distress.

For A Third Cause of Action

Against The Defendants

(negligent infliction of emotional distress)

36. The above set forth facts are made part of this third cause of action through incorporation by reference.

37. The defendants actions were negligent, grossly negligent, willful and wanton.

Additionally, their actions directly caused the plaintiff physical pain and emotional distress.

For A Fourth Cause of Action
Against The Defendants
 (Breach of Trust / Fiduciary Duty)

39. The above set forth facts are made part of this Fourth Cause of action through incorporation by reference.
39. The above set forth facts show that the defendants breached their fiduciary duty of trust with regards to the plaintiff.
40. As a result to the above the plaintiff has endured both physical and mental pain and suffering.

For A Fifth Cause of Action
Against The Defendants
South Carolina Dept of Correction
 (Respondent Superior)

41. At all time of the events in question, the defendant, warden Larry Cartledge, Captain Williams, and Lieutenant Church was an employee of perry correctional institution and the South Carolina Department of Corrections acting within the scope of their employment.
42. The defendants and the South Carolina Department of Corrections are strictly liable for the negligent acts of its employee, servants acting within the scope of their employment pursuant to the doctrine of respondent Superior.
43. The above set forth facts show that the defendants acted negligent, grossly negligent, which is an violation of state law to the South Carolina Tort Claims Act 15-78-60(25) et. seq.
44. As a result to the above the plaintiff has endured both physical and mental pain and suffering and as a direct result the plaintiff is entitled to actual, consequential and punitive damages.

whereby, The plaintiff prays for judgment against all defendants for actual, punitive and consequential damages;

(A) That warden Larry Cartledge to be sue in the amount of 100 Thousand dollars;

(B) That Captain Williams to be sue in the amount of 100 Thousand dollars;

(C) That Lieutenant Church to be sue in the amount of 20 Thousand dollars;

(D) A jury trial on all issues triable by jury;

(E) plaintiff costs for sick calls, medications, medical records, legal copies, and Filing Fee in this suit;

(F) Any additional relief this court deems just and proper.

Verification

I have read the foregoing Complaint and hereby verify that the matters alleged therein are true. I Certify under penalty of perjury that the foregoing is true and correct.

Sworn to and subscribed before me
this 13th day of August 2014

Judith Ann Bryant
notary public for S.C.

my commission expires May 26, 2020

Date: 8/13/14

s/ Benjamin Hayward
Benjamin Hayward #165514
Lieber Corr Inst
P.O. Box 205
Ridgeville, SC 29472

The State of South Carolina
In The Court of Appeals
Appeal From Greenville County
Court of Common Pleas

MS. Leticia H. Verdin Circuit Court Judge

Case No. 2015 - 000978

Benjamin Heyward #165514... Applicant

V.

South Carolina Dept of Corrections Respondent

Proof of Service

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MAY 22 2015

SC Court of Appeals

The undersigned Benjamin Heyward, pro-se Applicant, hereby declares that on May 15, 2015, A true and accurate Attached summons and complaint was placed in an envelope with First Class postage thereon prepaid through the United States Postal Service, and mailed to the Respondent Attorney as follows:

Doyle, Tate, & McDade, Esquire
P.O. Box 2125
Anderson, SC 29622

Benjamin Heyward
Benjamin Heyward #165514
Lieber Corr Inst
P.O. Box 205
Ridgeville, SC 29472

Date May 15, 2015

Benjamin Heys
Lieber Corr Inst
P.O. Box 205
Ridgeville, SC 29472



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S.C. Court of Appeals
Jenny A. Kitchings, Clerk
P.O. Box 11629
Columbia, SC 29211

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