

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

FORM 4

JUDGMENT IN CIVIL CASE

CASE NO. 2013 CP-40-7077

RECEIVED

AUG 14 2015

JOHN HOLLOWAY #277261

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

SC Court of Appeals

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: Ben H. Joyce, Esquire

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. 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

JEANNETTE W. MCBRIDE
 C.C.P. & G.S.
 2015 JUL 27 PM 12:55
 RICHLAND COUNTY
 FILED

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 (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.

Circuit Court Judge

Judge Code

Date

2141

7/20/2015

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 29 day of July 20 15 to attorneys of record or to parties (when appearing pro se) as follows:

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter:

CLERK OF COURT
Jeanette W. McBride

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF RICHLAND)	FIFTH JUDICIAL CIRCUIT
)	
John Holloway #277261,)	C/A No. 2013-CP-40-7077
)	
Plaintiff,)	
)	
vs)	ORDER GRANTING
)	SUMMARY JUDGMENT TO
South Carolina Department of)	DEFENDANT SOUTH CAROLINA
Corrections,)	DEPARTMENT OF CORRECTIONS
)	
Defendant.)	

RICHLAND COUNTY
 FILED
 2015 JUL 27 PM 12:53
 JANNETTE W. ACCORDE
 C.C.P. & G.S.

This matter came before the Court on the Defendant South Carolina Department of Corrections' (hereinafter "SCDC") Motion to Dismiss on July 2015 at the Richland County Courthouse. Present on behalf of SCDC was Benjamin H. Joyce, Esquire. Plaintiff John Holloway appeared *pro se*.

SCDC submitted a memorandum in support of Motion to Dismiss, which included an affidavit from SCDC Inmate Grievance Administrator, Michelle White. Also incorporated into SCDC's memorandum in support of Motion to Dismiss was an Order from the Administrative Law Court dismissing Plaintiff's appeal with prejudice as to his charges and convictions of Riot and Damage, Loss, Destruction, Defacing of Property. Also included were Plaintiff's grievances filed related to these convictions and his conviction of Refusing or Failing to Obey Orders. Counsel for SCDC moved pursuant to Rule 12(c), SCRCP, or in the alternative for summary judgment under Rule 56, SCRCP, in submitting the above-referenced items to the Court for consideration. Accordingly, the Court treats this motion as a Motion for Summary Judgment.

After considering arguments from both parties, reviewing respective written submissions, and SCDC's memorandum with the supporting affidavit and exhibits,

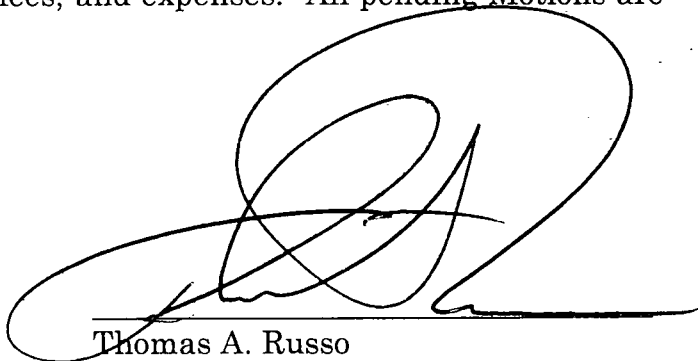
the Court grants SCDC's Motion for Summary Judgment on the grounds that Plaintiff has failed to exhaust his administrative remedies prior to filing this case.

There are no material issues of fact in dispute that would entitle Plaintiff to a judgment. Accordingly, the South Carolina Department of Corrections is entitled to judgment as a matter of law as the claims upon which Plaintiff bases his Complaint are based on his three disciplinary convictions of charges of (1) Riot, (2) Damage, Loss, Destruction, Defacing of Property, and (3) Refusing or Failing to Obey Orders, all of which are convictions in which Plaintiff did not properly exhaust his institutional and administrative remedies. Further, it appearing to the Court that the time period for Plaintiff to file grievances related to these three convictions has lapsed and that Plaintiff had already exceeded all time frames for filing grievances related to these issues prior to filing his Complaint, the Court grants SCDC's Motion for Summary Judgment and dismisses this case with prejudice.

THEREFORE, it is hereby ORDERED, ADJUDGED, AND DECREED that this case be, and the same is hereby, dismissed with prejudice and forever ended with each party bearing its own costs, fees, and expenses. All pending Motions are now considered moot.

IT IS SO ORDERED.

7/20, 2015
Florence, South Carolina



Thomas A. Russo
Presiding Judge, Fifth Judicial Circuit

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF RICHLAND

John Holloway #277261

C/A No. 2013-CP-40-7077

Plaintiff,

Versus

ORDER GRANTING SUMMARY JUDGMENT

South Carolina Department of Corrections

Defendants

Pro Se Plaintiff:

John Holloway #277261
Lieber Correctional Institution
P.O. Box 205
Ridgeville, SC 29472

Defendant's attorney:

Elloree A. Ganes (70509)
Ben H. Joyce (100949)
HOOD LAW FIRM, LLC
172 Meeting Street / Post Office Box 1508
Charleston, SC 29402
Phone: (843) 577-4435 / Facsimile: (843) 722-1630
Email: Info@hoodlaw.com

- MOTION HEARING REQUESTED (attach written motion and complete SECTION I and III)
- 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:

Estimated Time Needed:

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.

Betty
Signature of Attorney for Plaintiff(s) / Defendant(s)

7/24/2015
Date submitted

RICHLAND COUNTY
FILED
2015 JUL 27 PM 12:53
JEANETTE W. MCBRIDE
C.C.P. & G.S.

SECTION III: Motion Fee

- PAID - AMOUNT: \$25
- EXEMPT: (check reason)
 - Rule to Show Cause in Child or Spousal Support
 - Domestic Abuse or Abuse and Neglect
 - Indigent Status State Agency v. Indigent Party
 - Sexually Violent Predator Act Post-Conviction Relief
 - Motion for Stay in Bankruptcy
 - Motion for Publication Motion for Execution (Rule 69, SCRCPP)
 - 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: _____

JUDGE'S SECTION

- Motion Fee to be paid upon filing of the attached order.
- Other: _____

JUDGE
CODE: _____

DATE: _____

CLERK'S VERIFICATION

Collected by: meth
(print name)

DATE FILED
7/27/15

- MOTION FEE COLLECTED: _____
- CONTESTED-AMOUNT DUE: _____

SCANNED