

STATE OF SOUTH CAROLINA
COUNTY OF MCCORMICK

IN THE COMMON PLEAS COURT

FILED
GWENDOLYN D. CHILES

C/A No. 2012-CP-35-00020

2015 JUL 20 A 10:39

Patrick L. Booker,
Plaintiff,

CLERK OF COURT
MCCORMICK COUNTY, SC

- VS -

Motion to Reconsider or in the
Alternative to Amend or Alter

South Carolina Department
of Social Services et al.,
Defendants.

TO: Above-named Defendants

PLEASE TAKE NOTICE that the Patrick Booker will move before the Honorable Frank R. Addy, Jr., Circuit Judge, on the tenth (10th) day of service hereof, to respectfully request that this Honorable Court reconsider its Order filed July 6, 2015, or in the alternative, Plaintiff requests that the Court comply with the applicable law and set forth those facts which the Court finds relevant, determinative of the issues, and undisputed. The basis for this Motion is as follow:

By order dated July 2, 2015 Judge Addy granted summary judgment for the Defendant South Carolina Department of Social Services ("DSS"). In the Order, Judge Addy wrote: "In this case, there is no genuine issue as to any material fact."

However, Judge Addy's order is completely devoid of any of the facts which he found relevant, determinative of the issues, and undisputed.

In B & B Liquors, Inc. vs. O'Neil, the South Carolina Court of Appeals made it clear:

" It is imperative that the trial court state the material facts it found undisputed. "

Id., 603 S.E.2d 629 (S.C.App.2004); see, Bowen vs. Lee Process Systems Co., 342 S.C. 232, 536 S.E.2d 86 (S.C.App.2000) (" A trial court's order on summary judgment must set out facts ... sufficient to permit meaningful appellate review; such an order must include those facts which the trial court finds relevant, determinative of the issues, and undisputed, and the trial court should provide clear notice to all parties and the reviewing court as to the rationale applied in granting summary judgment. ")

In this case, the facts are "hotly disputed" and the Court has decided to grant summary judgment without first determining which material facts it found undisputed. As the Supreme Court recognized: " Summary judgment should be cautiously invoked to ensure that a litigant is not improperly deprived of a trial on disputed factual issues. " Helena Chemical Co. vs. Allianz Underwriters Inc., 594 S.E.2d 455 (S.C.2004).

Accordingly, the Plaintiff hereby request this Court to reconsider whether the DSS is entitled to summary judgment. If the Court believes the grant of summary judgment was warranted, the Plaintiff hereby request this Court to amend or alter its order by entering an order which include those facts which the Court finds relevant, determinative of the issues, and undisputed, to include providing clear notice to the parties and the reviewing court as to the rationale applied in granting summary judgment.

(NOTE: In the Order, Judge Addy found the libel and the psychological abuse of a vulnerable adult claims ~~as~~^{were} remaining causes of action in this case. However, these were not issues remaining before the Court at the time Judge Addy ruled upon them because Plaintiff voluntarily dismissed these two claims with prejudice in a filing made with the McCormick County Clerk of Court on May 12, 2015. Judge Addy should have received notice of this fact because the Clerk of Court, at Judge Keesley's direction, emailed Judge Addy all of Plaintiff's filings made on May 12, 2015.)

Plaintiff will remind the Honorable Frank R. Addy, Jr., that he is sworn to "rule after careful and considerate deliberation," and that he shall respect and comply with the law. In this case, the law clearly requires Judge Addy to state the material facts he found undisputed, relevant, and determinative of the issues, if he continue to believe DSS is entitled to summary judgment.

* Plaintiff requests the Court to grant him a hearing on this motion so that he may demonstrate how there is clearly genuine issues of material fact as to whether the DSS was grossly negligent by

- (A) refusing or failing to notify Mr. Booker of, or to furnish him with pertinent information about, the commencement of the investigation by DSS into allegations of child neglect concerning his minor child, in violation of § 63-7-920 (D) ;
- (B) refusing or failing to notify Mr. Booker that his minor child was testing positive for cocaine and other drugs ;
- (C) refusing or failing to permit Mr. Booker to access or obtain all medical records of his minor child, in violation of § 63-5-30 ;
- (D) refusing or failing to permit Mr. Booker to associate or communicate with his minor child by letters, telephone calls, or visits at his place of confinement, in violation of his right of association under South Carolina Constitution ;
- (E) and by creating an official document in which the DSS falsely stated Mr. Booker denied paternity of his child.

This Motion is made pursuant to Rule 59(e), SCACP.

Respectfully Submitted By,
Patrick L. Booker

July 13, 2015
Bennettsville, S.C.

Mr. Patrick L. Booker, No. 297590
Evans Correctional Institution
610 Highway 9 West
Bennettsville, S.C. 29512

Certificate of Service

I, Patrick L. Booker, do hereby certify that I have this date served the foregoing upon the Defendants by depositing a copy of the same in the U.S. Mail, postage prepaid, addressed as follows:

Russell W. Harter, Jr., Esq.
Attorney - at - Law
P.O. Box 10224
Greenville, S.C. 29603

7/13/15

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