

22113

IN THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

AUG 05 2015

SC Court of Appeals

APPEAL FROM RICHLAND COUNTY
COURT OF COMMON PLEAS

G. THOMAS COOPER, Jr., CIRCUIT COURT JUDGE

APPELLATE CASE NO. 2013-002306

Basil W. Akbar, Appellant,

v.

South Carolina Department of Corrections, Bill Byers, Martha Roof, Debrah Long, Lisia Johnson, Ann and John Doe, Respondents.

APPELLANT'S SUPPLEMENTAL RECORD
ON APPEAL (Corrected)

RECORD ON APPEAL

BASIL W. AKBAR, # 065498
LEE COUNTY CORR INST.
990 WISACKY Hwy., Flo. 2213-S
BISHOPVILLE, S.C. 29010
PRO SE APPELLANT

DANIEL R. SETTANA Jr.
POST OFFICE DRAWER 7217
COLUMBIA, S. C. 29202
(803) 256-4645
ATTORNEY FOR RESPONDENTS
Brandon P. Jones, Esquire

INDEX

	Page
INDEX	i
RESPONDENTS' DESIGNATION OF MATTER (Items: 1, 2, 3, 4, 5, 11, and 12, and attachments)	2-65
CERTIFICATE OF COUNSEL	66
ANNEXED CERTIFICATE OF SERVICE	67

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

Basil W. Akbar,
Plaintiff,

vs.

South Carolina Department
of Corrections; Bill Byars;
Martha Root; Deborah Long;
Lisa Johnson;
Ann and John Doe,
Defendants.

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT

2013 CP400 301
Case No.

SUMMONS

RICHLAND COUNTY
FILED
2013 JAN 16 PM 2:23
JEANETTE W. HOBBS
C.C.P. & G.S.

YOU ARE HEREBY SUMMONS, and REQUIRED to answer the Complaint
herein, a copy of which is here with served upon you, and to serve a
copy of your answer to this Complaint upon the subscriber at the
address shown below within thirty (30) days after service hereof,
exclusive of the day of such service, and if you fail to answer the
Complaint, Judgment by Default will be rendered against you for the
Relief demanded in the Complaint.

Date: October 1, 2012



Basil W. Akbar, 065498
Lee County Corr. Inst.,
990 Wisacky Highway, Kerr, 2224-N
Bishopville, S.C. 29010

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT

Basil W. Akbar,
Plaintiff,

Case No.

vs.

COMPLAINT

South Carolina Department
of Corrections; Bill Byars;
Martha Roof; Deborah Long;
Lisa Johnson;
Ann and John Doe.
Defendants.

(Jury Trial Demanded)

2013 JAN 16 PM 2:23
JEANETTE W. MCBRIDE
C.C.P. & G.S.

RICHLAND COUNTY
FILED

The Plaintiff, complaining of the above-named Defendants,
would show the Court:

1. The Plaintiff, Basil W. Akbar, at all times relevant herein a
state prisoner currently incarcerated at the Lee County Correctional
Institution, 990 Wisacky Highway, Richland C-119, Bishopville, S.C. 29010.

2. The Defendant, South Carolina Department of Corrections
(SCDC / Department) includes all staff, Departments, Institutions, Officials,
Employees, and Director, as well as whom SCDC is liable for, is
sued for willful, gross negligent, malicious tortious acts, as
names and set forth herein, as allowed under the South Carolina
Torts Claim Act; and is sued, seeking declaratory, injunctive and
monetary relief.

3. The Defendant, Bill Byars, is the Director of SCDC, he is
responsible for overall supervision of its staff, Employees, and the
Agency daily operations, the welfare of each prisoner, the implementa-
tion and enforcement of all Rules / Regulations governing prisoner and
SCDC's employees and their training. He is sued in his individual/
Official Capacity (s).

4. The Defendant, Martha Root, at all times Relevant served as an SCDC Finance Accountant, charged with vicarious/direct Management of SCDC's E.H. Cooper Trust Account. She is sued in her individual / official capacity(s).

5. The Defendant, Deborah Long, at all times Relevant served as an SCDC Finance Accountant, charged with vicarious / direct management of SCDC's E.H. Cooper Trust Account. She is sue in her individual / official capacity(s).

6. The Defendant, Lisa Johnson, at all times Relevant served as an SCDC Grievance Clerk, charged with carrying out her duties in a lawful and constitutional manner. She is sued in her individual / official capacity(s).

7. The Defendant, Ann and John Doe, are Agency / Employees of SCDC, and upon completion of discovery will be named, and sued in their individual / official capacity(s).

8. All the Defendants have acted, and continued to act under Color of State Law at all times Relevant to this Complaint; and pursuant to S.C. Code Ann. § 24-1-220, must be brought in Name of Director.

JURISDICTION

9. This action is brought pursuant to S.C. Code Ann. §§ 15-28-10 thru 15-28-190 (Supp. 2002), seeking monetary, Declaratory and Injunctive Relief, for wrongs done by Defendants in accordance with S.C. Torts Claims Act, and § 16-3-60 (1985).

STATEMENT OF FACTS

10. The Plaintiff pled guilty to murder in 1971, and received a sentence of life with parole eligibility ... and from July 1979 thru April 1981 the Plaintiff [AKBAR] were constitutionally assigned to SCDC's Work Release Programs, and employed at Owen Electric & Steel Company, and weekly deductions were taken for, "Mandatory Long Term Escrow Saving Account" ... and Room and Board, and subsequently released on conditional parole April 1981 day of parole hearing. However, balance of Escrow

Account was Not Release. On April 1985 Akbar's conditional parole was revoked in absence and returned to the restraint of SODC, Akbar contends that he has an vested interest right to his work release escrow account.

STATEMENT OF CASE

11. This Complaint Raised from an Inmate Grievance(s), [Lee C.I. #2323-09, #0813-10, #1270-10, and #1398-10] initiated by the Plaintiff Basil W. Akbar (AKBAR), filed between August 17, 2009 thru June 3, 2010, and Administrative Law Court Appeal filed, and dated December 31, 2010 claiming that his Liberty Interest Rights, Statutory Rights, Rule, Regulations, and Department's Policies governing procedures was grossly violated.

12. On October 22, 2008, Akbar initiated correspondence with SDC's Financial Business Office [Martha Roof], and second Request on December 1, 2008 upon no Reply ... and after numerous phone calls via family members; Akbar's Request to Staff Member was Return with disposition dated June 18, 2009, from [Debrah Long] SDC's Financial Account Branch whom fail to address concerns. A third Request was served on Ms. M. Roof and Ms. D. Long, via "Certified Mail" ... seeking information pertaining to said "Work Release Escrow Account" pursuant to S.C. Code Ann. §§ 30-4-10 thru 30-4-110. However Defendants fail to Respond, or make said account transparent upon Request under the SDC's definition of Department's Policy "Employee Account, ADM-15.12."

13. On August 17, 2009, Akbar filed a "Step 1" grievance (Lee C.I. #2323-09) that was returned unprocessed, and on March 17, 2010, Akbar file a second grievance (Lee C.I. #0813-10), asserting fraudulent appropriation of his Work Release Escrow Savings Account ... and likewise returned unprocessed by Ms. Lisa Johnson Grievance Clerk, stating, "According to Agency Policy GA-01.12, you have (15) Fifteen days from the date of the alleged incident to file a grievance on this issue" ... however suggested that Akbar submit a Request to Ms. Melton, Lee C.I. Business Office to address issue.

14. Akbar was informed for the first time "February 9, 2009" that according to the system you do not have an account of Work Release in 1981. That account was probably closed and archived when you were Release in 1981."

15. As a Results a Third grievance (LEE C.I. #1270-10) was filed and RETURNED UNPROCESSED by MS. L. JOHNSON GRIEVANCE CLERK.

16. ON JUNE 7, 2010, Akbar filed grievance (LEE C.I. #1598-10) Contending that grievance Clerk and SCDC deprived, and violated his vested liberty interest entitlement, Civil and Constitutional Rights.

17. ON December 31, 2010, Akbar filed a S.C. Administrative Law Court (ALC) Notice of Appeal, Contending that the Department had "Procedurally Defaulted," Raised as one of numerous issues, that was dismissed when the ALC impermissibly heighten the standard of Review.

CLAIMS

FIRST CAUSE OF ACTION PROCEDURAL DEFAULT

18. The Plaintiff Realleges each and every allegation set forth above as if repeated herein verbatim, and further alleges:

19. Akbar contends that Defendants SCDC and Bill Byars Director, by virtue of Chapter 78 of Title 15 § 24 South Carolina Code of Law is responsible for the conduct of the Defendants as set forth above, said conduct being grossly negligent, wilfully, wanton and Reckless in the particular to wit:

a. SCDC's Conduct constituted procedural default, and Reprisal where prison officials fail to process grievance(s) within fixed time at each stage, and safeguard against Reprisal, and

b. grievance LEE C.I. #1598-10, filed June 7, 2010 went unaddressed passed fix time limit, in violation of SCDC's Policy GA-01.12; Nelson Consent Decree, page 38, § 2; 1st, 5th and 14th Amendment of State and Federal Constitution; S.C. Const. Art. 1, § 3; and established law.

c. SCDC/officials did wilfully and intentionally fail to perform ministerial duties ... fail to keep within time Restriction and exceeded the power conferred upon the Agency by clearly established authority ... ignoring its own guidelines, constituting default.

SECOND CAUSE OF ACTION TORTUOUS ACTS

20. The Plaintiff Realleges each and every allegation set forth above as if repeated herein verbatim, and further alleges:

21. The conduct of Defendants, Staff, Employees, Officials and Agents, constituted gross negligent, willful, wanton and intentional violations by virtue of Chapter 78 Title 15 South Carolina Code of Laws; S.C. Code §§ 24-3-20 thru 24-3-40; under the SCDC's definition of Policy *ADM-15.12; 1st, 5th, 8th and 14th Amendments, State and Federal Constitution(s), S.C. Constitution Art. I, § 3, as set forth above:

- a. in that Defendants Refusal / failure to make Work Release Escrow Account transparent to him, and as a punishment.
- b. in that Defendants deprived him of benefit of interest pursuant to S.C. Code § 24-3-40... and deprived of personal property void due process, and
- c. in depriving him of reporting of mistake in Account, and did unlawfully silence his speech.
- d. in that Defendants fail to investigate, or correct mistake, or explain why the account is correct.

THIRD CAUSE OF ACTION OUTRAGE

22. The Plaintiff Realleges each and every allegation set forth above as if repeated herein verbatim, and further alleges:

23. The Plaintiff contends that the conduct of the Defendants as set forth above was outrageous in nature, in that conduct was atrocious and utterly intolerable in a civilized community and so at extreme and outrageous as to exceed all possible bounds of decency, thus denying fundamental liberty interest protected by Due Process Clause, such conduct was deliberate, intentional, reckless and an arbitrary abuse of power sufficient to

Shock the Judicial conscience. Defendants acted with full appreciation of the effect of its action, thus certain cause Akbar to suffer physical, psychological, and emotional distress... and in that Defendants willfully and grossly violated provisions, laws, rules, regulations and constitutional rights, without regards for Akbar's life, liberty or property, while being denied due process, equal protection of the law, and property interest rights:

- a. in that Defendants deprived Akbar of civil liberty, amenability to civil action... liability to actions seeking remedies... and enforcement of personal rights based on tort pertaining to the rights and duties... and rights to legal proceedings concerning these rights.
- b. in that Defendants deprived him of his civil rights belonging to Akbar by virtue of his civil rights as a citizen, and member of civil society, and society, and social equality, and
- c. in that Defendants arbitrarily... Repeated... intentional acts and omission did unlawfully impeded/obstructed the due course of justice... and subverted Akbar's rights.
- d. in that Defendants unlawfully infringed upon Akbar's free speech and property rights, as he sought the status and balance of his Work Release Escrow Account... Redress Relief... Remedy and Recovery.

FOURTH CAUSE OF ACTION FRAUDULENT APPROPRIATION/DAMAGES

24. The Plaintiff realleges each and every allegation set forth above as if repeated herein verbatim, and further alleges:

25. As a direct and proximate results of the afore said acts and omission on the part of the Defendants, the Plaintiff has been injured and damaged, in that he has been fraudulently deprived of property [money], privileges and immunities afforded to citizens of the State of South Carolina, and has been

subjected to cruel and unusual punishment... deprived of liberty and property entitlement, due process and equal protection of the law, thereby entitling him to recover actual and compensatory damages from the Defendants... and is further entitled to punitive/exemplary damages from the Defendants, as the conduct of such Defendants as set forth herein was willful, wanton, reckless and grossly negligent, as well as knowing, intentional and malicious.

a. in that SCDC's Financial Account Branch is charged with the fiduciary duty and obligation to Akbar, the beneficiary of Work Release Escrow Savings Account #065498.

b. in that SCDC/Defendants are required under Policy ADM-15.12 Close-out of Inmate Account, Section 20, Work Release Program Inmate Unclaimed Account... letter will be sent to the last known address of the account holder whose balance is \$50.00, or more, and

c. in that Akbar never closed-out his Work Release Escrow Account... and were paroled and release on the same day, and was not advised or given notice regarding closing-out Escrow Account.

26. The Plaintiff further seeks leave for Discovery pursuant to Rule 33 and 34, S.C.R.Civ. Proc., and RESERVES rights to amend pleadings after discovery is completed from time of service until time of hearing of this action.

RELIEF

WHEREFORE, Plaintiff request this Honorable Court grant the following Relief:

A. Issue a Declaratory Judgment in that Defendants violated State Provisions, Laws, Rules and Regulations when that:

1. in that defendants under SCDC's definition of Policies, ADM-15.12, Closed-out of Inmate Account; and GA-01.12, Informal Resolution violated procedures and process.

2. in that defendants fail to carry-out fiduciary duty / obligation owed to [AKBAR] beneficiary of account.
3. in that defendants ERRONEOUSLY RENDERED AKBAR PERMANENTLY ineligible for attaining his WORK RELEASE ESCROW ACCOUNT Funds, upon unjustified claim.
4. in that AKBAR's liberty interest and property interest Rights was properly established.

B. Issue Injunctive and Mandatory Injunctive Orders that Defendants, Staff, Employees, Officials and Agents:

1. Refrain from arbitrarily imposing Restraints Not PRESCRIBED / applicable in AKBAR's case.
2. that AKBAR'S [1979-1981] WORK RELEASE ESCROW ACCOUNT be made immediately transparent... balance... Status, and interest... TRANSFERRED to his E.H. COOPER ACCOUNT, or designee.

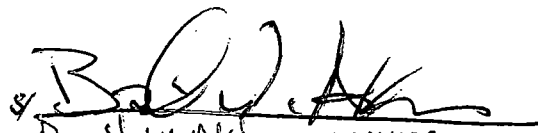
C. Grant Damages in the amount of:

1. \$600,000 the statutory limit, jointly / severally against all named defendant(s).

D. Grant Punitive Damages of \$300,000 against each Defendants.

E. And for such other and further Relief as the Court may deem proper and just.

Bishopville, S.C.,
 Date: June 14, 2011
 October 1, 2012


 Basil W. AKBAR, 065498
 Lee County CORR. Inst,
 990 Wisacky Highway, Rich. C-119
 Bishopville, S.C. 29010

**SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
REQUEST TO STAFF MEMBER**

TO: NAME: <u>Ms. Melton</u>	TITLE: <u>Business Office</u>	DATE: <u>April 23, 2010</u>
INMATE'S NAME: <u>Basil W. Akbar</u>		SCDC #: <u>065498</u>
INSTITUTION: <u>Lee County</u>		LIVING QUARTERS: <u>Richland C-119</u>

Madam:

PER Ms. L. Johnson Grievance Clerk disposition dated 4/21/10, she suggested that I submit a Request to Staff to you with regards to the status and balance of my 1979-1981 April 8, Work Release Long Term Escrow Savings Account that was NEVER closed.

I am Requesting a chronicle narrative of said account with interest.

Thank You.

DISPOSITION BY STAFF MEMBER:

Akbar: According to the system, you do not have an account of "Work Center" funds. That account was probably closed and archived when you were released in 1981.

At the present you have \$56.76 in your PI mandatory savings account.

DATE: 4/28/10	SIGNATURE: Ms. Melton
----------------------	------------------------------

**SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
REQUEST TO STAFF MEMBER**

TO: NAME:	TITLE:	DATE:
MS. Long / MS. Roof, Financial Accounting Dept.		July 7, 2009
INMATE'S NAME:	SCDC #:	
Basil W. Akbar	065498	
INSTITUTION:	LIVING QUARTERS:	
Lee County	Richland C-119	

I am in receipt of your Disposition... dated June 18, 09, as to my December 1, 2008, Request to Staff Member addressed to Ms. Roof... HOWEVER, with regards to my question #6, "In addition, include a separate statement of my 1980 & 1981, Work Release Escrow Account Mandatory Long Term Savings... status and balance... that was NEVER transferred to my E.H. Cooper Trust Fund Account,"... Your reply was... "statements from 80 & 81 are not available.. According to our record you received a Cooper deposit from Livesay Wak Center on 3/30/44.

To the contrary, in 1994 I was located at Lieber Inst, the only SCDC deposit should have been a REIMBURSEMENT for lost property [GA. #CJ-030-44], MS. SUZANNE Reich, Chief Accounting Branch. ON 3/15/94 (\$2723); 3/25/94 (\$50.00) both cash deposits was from ME... ONLY deposits in MARCH. MOREOVER, said account [Basil W. Akbar, a.k.a. Melvin T. Brown, #065498] was NEVER closed.

I am respectfully REQUESTING under F.O.I.A. SC Code §§ 30-4-10 thru 30-4-110, that you access your RECORDS that may be archived / reduced to Micro Fiche for information pertaining to above REFERENCED account, and I would appreciate a prompt RESPONSE, as the Regulation stipulate. Thank you in advance.

DISPOSITION BY STAFF MEMBER:

NO REPLY:

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Debrah Long
South Carolina Dept. of Corr.
Financial Accounting Dept.
4414 Broad River Rd
Columbia, SC 29210

DATE:

SIG

12.

COMPLETE THIS SECTION ON DELIVERY

A. Signature

[Signature] ☒ Agent ☐ Addressee

B. Received by (Printed Name)
Amos Ackerman

C. Date of Delivery
7-23-09

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- ☐ Certified Mail ☐ Express Mail
- ☐ Registered ☐ Return Receipt for Merchandise
- ☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes

SECOND URGENT REQUEST :

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS REQUEST TO STAFF MEMBER

TO: NAME:	TITLE:	DATE:
MS. ROOF, Financial Business Office		December 1, 2008
INMATE'S NAME:	SCDC #:	
Basil W. Akbar	065498	
INSTITUTION:	LIVING QUARTERS:	
Lee County	Richard C-119	

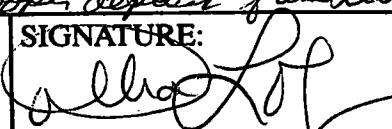
Madam: However, Respectful during this slow process as to attain requested information I have been patiently waiting. I initially wrote you Oct. 22, 2008, and has not received a reply to my legitimate & genuine concerns, thus, Resubmits as verification: I beseech your assistance, I am currently employed in Lee C.I., West Yard Prison Industry, and respectfully seeks the following information with regards to my Escrow account(s):

1. Does this account draw interest, if so, what is the current rate
2. Will I receive quarterly statements... automatically, etc....
3. Provide me with a complete copy of instructions, as to how to access escrow account.
4. Will I be charged a service fee, if so, explain.
5. Provide me with a complete copy of the Prison Industry Service Program pay deductions, and provision(s) [S.C. Code of Law] of authorization.
6. In addition, include a separate statement of my 1980 & 1981 work release escrow account mandatory long term savings... status and balance... that were never transferred to my E.H. Cooper Trust Fund Account.

Thank You

DISPOSITION BY STAFF MEMBER:

- 1) The account does earn interest see attached
- 2) Statements are not issued on long term "P" account for service however if your account earns more than \$10. interest per year you will receive a 1099.
- 3) you do not have access to your escrow account until your release
- 4) no
- 5) we do not provide copies of policy or Code of Law. you will need to go to the law library for the code of Law. Policies should be available at the institution
- 6) Statements from '80 + '81 are not available. According to our records you received a copper deposit for Liveoak Work Center on 3/30/94

DATE:	SIGNATURE:
6/18/09	

STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

Basil W. Akbar, 065498	)	Docket No. 10-ALJ-04-1104-IJ
Appellant,	)	(Grievance No. LCI-1598-10)
	)	
Vs.	)	NOTICE OF MOTION AND MOTION
South Carolina Department	)	FOR STATUS CONFERENCE
Of Corrections,	)	
Respondent	)	

TO: MICHAEL LAUBSHIRE ATTORNEY FOR RESPONDENT(S):

YOU WILL PLEASE TAKE NOTICE, that the Appellant, **Pro Se**, will move the court for a status conference pursuant to the grounds set fourth in this motion. Said Motion will be heard within ten (10) days or at such time and place as may be set by the Administrative Law Court, of which you will be notified.

The Appellant moves for a status conference pursuant to Rule 16 (e) of the South Carolina rules of Civil Procedure on the following grounds:

1. Status of Respondent's Default to Reference grievance in caption.
2. Status of Appellant's Discovery Motion.
3. Fact finding procedure was inadequate, and record is incomplete.
4. The Appellant has clear and convincing evidence that disprove facts presented by the Respondent.
5. The Respondent **cannot** move for dismissal while in default.
6. In light of the unique posture of this case, Appellant Request a status conference with this Honorable Court to establish how this case is going to proceed forward.

This Motion is supported by the pleadings on file with the Court and the South Carolina Rules of Civil Procedure.

Bishopville, S.C.
Date March 16, 2011


S/ Basil W. Akbar, 065498
Lee County Corr. Inst.
990 Wisacky Hwy, Ric.C-119
Bishopville, S.C. 29010

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
COASTAL CORRECTIONAL REGION

April 29, 1994

Mr. Basil Akbar
SCDC #65498
Lieber Correctional Institution

RE: GRIEVANCE #LCI-030-94

Dear Mr. Akbar:

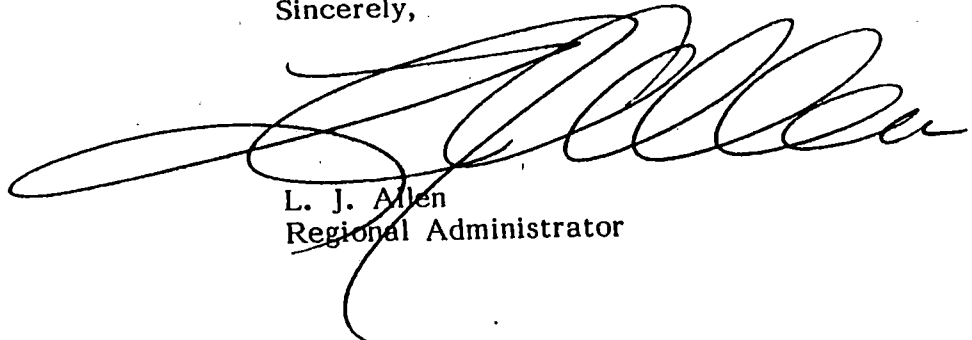
Due to an excessive workload, your complaint could not be addressed within the required time frame; therefore, a delayed response is submitted.

This letter is in response to the above referenced grievance filed against the Lieber Correctional Institution's operation procedures. You state upon your arrival to the Lieber Reception and Evaluation Center from the Broad River Correctional Institution, your personal property was inventoried by Sergeant Sosa. You state that several items you purchased from the State Canteen at the Broad River Correctional Institution were confiscated as contraband and have not been returned to your possession. In an effort to resolve this matter, you are requesting reimbursement for your missing property.

The items in question are considered contraband in the Lieber Correctional Institution's Maximum Security area; however, the items should not have been disposed of. Therefore, a memorandum requesting approval for reimbursement has been forwarded to Ms. Suzanne Reich, Chief, Financial Accounting Branch.

I trust I have adequately addressed your concern and consider this matter resolved. If you wish to pursue this matter, you must confer with the Inmate Grievance Clerk within three (3) days upon receipt of my response to you.

Sincerely,



L. J. Allen
Regional Administrator

LJA/dmr

cc: Ombudsman Branch
Mr. Benjamin Montgomery, Warden, Allendale Correctional Institution
Grievance Staff Coordinator File: #LCI-030-94
CCRO File



south carolina department of corrections

P.O. BOX 21787/4444 BROAD RIVER ROAD/COLUMBIA, SOUTH CAROLINA 29221-1787
TELEPHONE (803) 896-8555
PARKER EVATT, Commissioner

July 1, 1994

Mr. Basil Akbar
SCDC No. 65498
Lieber Correctional Institution

Re: Grievance No. LCI-030-94

Dear Mr. Akbar:

This is to inform you that the Inmates' Personal Property Review Committee met on June 27, 1994, and reached a decision regarding your personal property reimbursement claim.

The Committee recommended that you be reimbursed \$7.00 for your confiscated items. I concur with the Committee's decision. Therefore, by copy of this letter, I am requesting that Warden Montgomery implement reimbursement procedures in accordance with SCDC Policy No. 1500.30, Inmates' Personal Property, Page 2.

Sincerely,

William D. Catoe
Deputy Director for Operations

WDC:dh

cc: Mr. Blake E. Taylor, Jr.
Mr. L. J. Allen
Mr. Benjamin Montgomery (for necessary action)
Ms. Susanne Reich, Financial Accounting
Mr. Stacy L. Ford, Grievance Clerk, Lieber

NIKKI R. HALEY, CHAIR
GOVERNOR

CURTIS M. LOFTIS, JR.
STATE TREASURER

RICHARD ECKSTROM, CPA
COMPTROLLER GENERAL



SC BUDGET AND CONTROL BOARD

INSURANCE RESERVE FUND

POST OFFICE BOX 11066
COLUMBIA, SOUTH CAROLINA 29211
(803) 737-0020
FAX: (803) 737-0042

HUGH K. LEATHERMAN, SR.
CHAIRMAN, SENATE FINANCE COMMITTEE

W. BRIAN WHITE
CHAIRMAN, HOUSE WAYS AND MEANS

ELEANOR KITZMAN
EXECUTIVE DIRECTOR

July 22, 2011

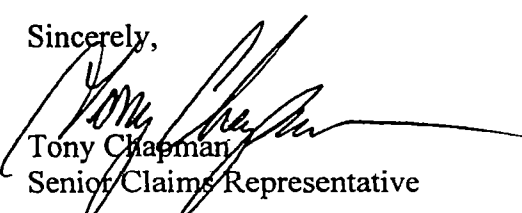
Basil Akbar
990 Wisacky Highway
Bishopville, SC 29010

RE: Our Insured: SCDC
IRF Claim Number: 75046

Dear Mr. Akbar:

We have carefully examined the facts and circumstances of your claim concerning a financial account from your participation in a work release program between 1979 and 1981. After reviewing all available information, it has been determined that there is no action that we can take regarding this situation.

Sincerely,


Tony Chapman
Senior Claims Representative

CC:

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

NOTICE OF VERIFIED
CLAIM FOR DAMAGES

TO: EXECUTIVE DIRECTOR FRANK W. FUSCO:

I, Basil W. Akbar, 065498, is an Inmate Residing at Lee County Correction Institution, 990 Wisacky Highway, Rich. C-119, Bishopville South Carolina, 29010, present this claim for damages in accordance with the South Carolina Tort Claims Act against the South Carolina Department of Corrections; and John Doe and Ann Doe, in the amount of \$600,000 the statutory limit, S.C. Code ANN. § 15-78-120(2)(2).

The claim results from the South Carolina Department of Corrections [SCDC/ Department]; and Officials / Employees failure to discharge their duties.

On and between July 1979 thru 1981, Basil W. Akbar [AKBAR], were Constitutionally assigned to Work Release Program, and employed at Owen Electric & Steel Company, and weekly deductions were taken for "Mandatory Long Term Escrow Savings Account" ... and "Room and Board". On April 1981 Akbar was Released on Conditional Parole, however, balance of ESCROW account was not Released, nor transferred to AKBAR's general account.

On October 22, 2008, AKBAR initiated Correspondent with SCDC's Financial Business Office [Ms. Martha Roof] and subsequent second Request on December 1, 2008 upon Reply, after numerous phone calls via family members ... on June 18, 2009, received disposition from SCDC's Financial Account Branch [Ms. Debrah Long], failing to address concerns.

On July 7, 2009, AKBAR forwarded an additional Request to SCDC's Financial Account Branch [Ms. M. Roof & Ms. D. Long], via "Certified Mail" ... that he sought information pertaining to said "Work Release Escrow Account" pursuant to S.C. Code ANN. §§ 30-4-10 thru 30-4-110, to no avail.

Subsequently, AKBAR filed numerous Grievances that was returned unprocessed, stating that according to Agency Policy "GA-01.12, you have (15) fifteen days from the day of the alleged incident to file a grievance on this issue," however, Inmate Grievance Clerk Lisa Johnson advised that I have [Ms. Melton] the Institution Business Office to address concern, and was informed for the first time that according to the computer [SCDC]

System that I did not have an account of WORK Release center funds, and that account was closed and archived... a third grievance was filed and returned unprocessed.

On June 10, 2010 a fourth grievance was filed against Grievance Clerk L. Johnson's RECKLESS INDISCRETION and CONSPIRACY against Plaintiff's Civil Rights, with the attached Grievances, whereby Akbar sought to have his E.H. Cooper WORK Release Mandatory Long Term Escrow Savings Account made transparent to him with respect to status and balance which the Department fail to do... Subsequent said grievance [Lee C.I. #1598-10] proceeded beyond the time limitation established in [GA-01.12] Department's guidelines, and constituted a procedure default.

The Respondents / Defendants in instant case is in direct violation of Akbar's Liberty Interest Rights, Various Laws, and Provisions, and the Plaintiff merits redress and damages rectification on his claims for money owed, and Tort.

Bishopville, S.C.

Date: May 18, 2011

Basil W. Akbar
Basil W. Akbar, 063498

VERIFICATION

PERSONALLY appeared before me, Basil W. Akbar, who being duly sworn, deposes and says that he is the Claimant Named above, that he has Read the Claim, and the facts stated therein are true of his own knowledge, except those matters and things stated on information and belief, and as to those matters and things, he believes them to be true.

Basil W. Akbar
Basil W. Akbar, 063498

Sworn to before me
This 18 day of May, 2011

Notary: B. Bracy

My Commission Expires: 5-16-14

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

Basil W. Akbar,)

Plaintiff,)

v.)

South Carolina Department of Corrections,)
Bill Byers, Martha Roof, Debrah Long,)
Lisia Johnson, Ann and John Doe,)

Defendant.)

IN THE COURT OF COMMON PLEAS

C/A No: 2013-CP-40-0301

**NOTICE OF MOTION AND MOTION
TO DISMISS/STRIKE PRAYER
FOR PUNITIVE DAMAGES**

BRANETTE W. MCBRIDE
S.C.P. & G.S.

2013 FEB 27 AM 10:26

RICHLAND COUNTY
FILED

TO: BASIL W. AKBAR, #65498, PRO SE PLAINTIFF:

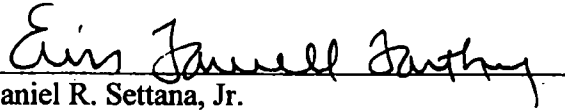
YOU WILL PLEASE TAKE NOTICE that Defendants, by and through their undersigned attorney, will move before the Presiding Judge for the Fifth Judicial Circuit, on the tenth (10th) day following service hereof, or at such time and place as may be set by the Court, for an Order dismissing and/or striking any and all language in Plaintiff's Complaint, including any prayer for relief, which may be construed as a prayer for punitive damages against them, on the grounds stated in this Motion.

These Defendants move to dismiss, to strike, or for summary judgment on Plaintiff's prayer for punitive damages pursuant to Rules 12(b)(6) and 56, S.C.R.Civ.P., and pursuant to the South Carolina Tort Claims Act, and specifically, S.C. Code Ann. §5-78-120(b), which states: "No award for damages under this Chapter shall include punitive or exemplary damages or interest prior to judgment."

This Motion is supported by the pleadings on file with the Court and such memorandum of

EFF
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law as these Defendants may file with the Court.



Daniel R. Settana, Jr.

Erin Farrell Farthing

McKay, Cauthen, Settana & Stublely, P.A.

1303 Blanding Street

P.O. Drawer 7217

Columbia, SC 29202

(803) 256-4645

Attorneys for Defendants

Columbia, South Carolina

February 27, 2013

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Basil W. Akbar,

Plaintiff,

v.

South Carolina Department of Corrections,
Bill Byers, Martha Roof, Debrah Long,
Lisia Johnson, Ann and John Doe,

Defendant.

IN THE COURT OF COMMON PLEAS

C/A No: 2013-CP-40-0301

**NOTICE OF MOTION AND
MOTION TO DISMISS OR IN
THE ALTERNATIVE,
MOTION TO SUBSTITUTE
PARTIES**

JEANETTE W. McBRIDE
C.C.P. & G.S.

2013 FEB 27 AM 10:28

RICHLAND COUNTY
FILED

TO: BASIL W. AKBAR, #65498, PRO SE PLAINTIFF:

YOU WILL PLEASE TAKE NOTICE that Defendants, by and through their undersigned counsel, will move before the Presiding Judge for the Fifth Judicial Circuit, Richland County Courthouse, Columbia, South Carolina, ten (10) days after service hereof, or as soon thereafter as the matter can be heard, for an Order dismissing this action against them, or in the alternative, to substitute parties, pursuant to the grounds set forth herein.

Defendants move to dismiss this action pursuant to Rule 12(b)(1), (2), (4), (5) and (6) of the South Carolina Rules of Civil Procedure on the grounds of lack of subject matter jurisdiction, lack of jurisdiction over the person, insufficiency of process and insufficiency of service of process and the claim fails to state a cause of action upon which relief can be granted for the reasons stated below:

1. The Plaintiff fails to state a cause of action under the Constitution and laws of the United States or the State of South Carolina; the claims are frivolous and

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without merit; there is no genuine issue as to any material fact; and the Complaint does not state a claim upon which relief can be granted.

2. Plaintiff has failed to properly serve Defendant(s) and other necessary parties pursuant to Rule 4(d), SCRPC.

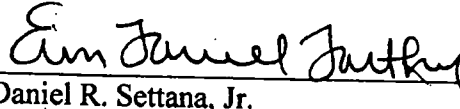
3. Plaintiff has improperly named as Defendants individual employees of a governmental entity, all of whom were acting, at all times relevant herein, within the course and scope of their employment with the South Carolina Department of Corrections, a governmental entity and agency of the State of South Carolina. Pursuant to S.C. Code Ann. Sections 15-78-70 and 15-78-200, when bringing an action against a governmental entity or against an employee acting on behalf of a governmental entity, only the agency or political subdivision shall be named as defendant. If an employee is individually named in a suit, the governmental entity shall be substituted for that employee. All of the individually named Defendants in the present action were acting as agents and employees of the South Carolina Department of Corrections at all times relevant herein and therefore the proper entity to defend this matter is the South Carolina Department of Corrections.

4. Plaintiff has failed to establish the prerequisites for injunctive relief.

5. Plaintiff's claims are barred by the applicable statute of limitations

This motion may be deemed one for summary judgment under Rule 56, pursuant to Rule 12(b), SCRPC, and may be supported by affidavits submitted prior to a hearing in accordance with the South Carolina Rules of Civil Procedure and by certified copies of documents relevant to this action. It is also supported by the pleadings on file with the Court, the South Carolina Rules of Civil Procedure, the South Carolina Tort Claims Act,

the statutory and case law of the United States of America and the State of South Carolina and such memoranda as may be submitted in support hereof.



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Columbia, SC 29202
(803) 256-4645
Attorneys for Defendants

Columbia, South Carolina
February 27, 2013

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

Basil W. Akbar,)

Plaintiff,)

v.)

South Carolina Department of Corrections,)
Bill Byers, Martha Roof, Debrah Long,)
Lisia Johnson, Ann and John Doe,)

Defendant.)

IN THE COURT OF COMMON PLEAS

C/A No: 2013-CP-40-0301

ANSWER OF DEFENDANTS
(Jury Trial Demanded)

RICHLAND COUNTY
FILED
2013 MAR 13 PM 4:43
JANET L. HARRIS
CLERK

TO: BASIL W. AKBAR, #65498, PRO SE PLAINTIFF:

Defendants, by and through their undersigned attorneys, not waiving but specifically reserving its right to be heard under all Rule 12 Motions, answering the Complaint herein, would respectfully show unto the Court that:

FOR A FIRST DEFENSE

1. The Complaint fails to state facts sufficient to constitute any cause of action or claim upon which relief may be granted against Defendants and should be dismissed under Rule 12(b)(6).

FOR A SECOND DEFENSE

2. Plaintiff has improperly named as defendants individual employees of a governmental entity, all of whom were acting, at all times relevant herein, within the course and scope of their employment with the South Carolina Department of Corrections, a governmental entity and agency of the State of South Carolina. Pursuant to S.C. Code Ann. §§ 15-78-70 and 15-78-200, when bringing an action against a governmental entity or against an employee acting on behalf of a governmental entity, only the agency or political subdivision shall be named as defendant. If an employee is individually named in a suit, the governmental entity shall be substituted for that employee. All of the individually

named Defendants in the present action were acting as agents and employees of the South Carolina Department of Corrections at all times relevant herein and therefore the proper entity to defend this matter is the South Carolina Department of Corrections.

3. Therefore, to the extent Plaintiff asserts claims under the South Carolina Tort Claims Act, the individually named Defendants must be dismissed from the cause of action pursuant to S.C. Code §15-78-70(c) and -200.

FOR A THIRD DEFENSE

4. Plaintiff has failed to properly serve Defendant and other necessary parties pursuant to Rule 4(d), SCRPC.

5. Defendant pleads insufficiency of process and insufficiency of service of process under Rule 12(b)(4) and (5) SCRPC as defenses, and also moves to dismiss on these grounds.

FOR A FOURTH DEFENSE

6. Defendants assert that Plaintiff's claims are barred by the applicable statute(s) of limitations.

FOR A FIFTH DEFENSE

7. The Defendants are subject to suit only pursuant to the South Carolina Tort Claims Act, S.C. Code Ann. Section 15-78-10 *et seq.*

8. Pursuant to Rule 12(b)(6) and S.C. Code Ann. Section 15-78-120(b), all references to punitive and/or exemplary damages and costs sought in the Complaint should be dismissed and stricken since the Plaintiff cannot recover these damages from Defendants and Defendants hereby move for such relief and further asserts this Code Section as an affirmative defense.

FOR A SIXTH DEFENSE

9. The Defendants herein specifically deny each and every allegation contained within the

Complaint not hereinafter either expressly admitted qualified or explained.

10. The Defendants admit only so much of the allegations of Paragraph 1 of the Complaint as would allege that Plaintiff is an inmate and is currently confined to the SCDC.

11. Defendants deny the allegations of Paragraph 2 of the Complaint and demand strict proof thereof.

12. Defendants admit only so much of the allegations of Paragraph 3 of the Complaint as would allege that Defendant Byars is the Director of the SCDC. Defendants deny the remaining allegations of Paragraph 3 as alleged, and demand strict proof thereof.

13. Defendants admit only so much of the allegations of Paragraph 4 of the Complaint as would allege that Defendant Roof is an employee of the SCDC. Defendants deny the remaining allegations of Paragraph 4 as alleged, and demand strict proof thereof.

14. Defendants admit only so much of the allegations of Paragraph 5 of the Complaint as would allege that Defendant Long is an employee of the SCDC. Defendants deny the remaining allegations of Paragraph 5 as alleged, and demand strict proof thereof.

15. Defendants admit only so much of the allegations of Paragraph 6 of the Complaint as would allege that Defendant Johnson is an employee of the SCDC. Defendants deny the remaining allegations of Paragraph 6 as alleged, and demand strict proof thereof.

16. Defendants lack sufficient information to admit or deny the allegations of Paragraph 7 of the Complaint, and therefore deny same and demand strict proof thereof.

17. Defendants deny the allegations of Paragraph 8 of the Complaint as worded, and demand strict proof thereof.

18. Paragraph 9 of the Complaint is a plea directed to the Court, and requires no response from Defendants; however, to the extent a response is required from Defendants, Defendants admit only

that they are subject to the South Carolina Tort Claims Act, and deny the remaining allegations of Paragraph 9 of the Complaint, and demand strict proof thereof. Defendants specifically deny that Plaintiff has any cause of action against Defendants based on any theory contained within Paragraph 9 of the Complaint

19. Defendants admit only so much of the allegations of Paragraph 10 of the Complaint as would allege that Plaintiff was sentenced to life in prison following a plea of guilty to murder in 1971, that Plaintiff was released on conditional parole in April 1981, that Plaintiff's parole was revoked and he was convicted of a number of additional crimes in 1985, and that he was returned to the custody of the SCDC in 1985 where he has remained since. Defendants deny the remaining allegations of Paragraph 10 of the Complaint and demand strict proof thereof.

20. Defendants admit so much of the allegations of Paragraph 11 of the Complaint as would allege that Plaintiff filed grievances 2323-09, 0813-10, 1270-10, and 1598-10 in 2009 and 2010, but deny all remaining allegations of Paragraph 11 of the Complaint and demand strict proof thereof. Defendants specifically deny that those grievances were properly filed or that they complied with SCDC policy, and further deny that Plaintiff has any cause of action against Defendants based on any theory contained within Paragraph 11 of the Complaint

21. Defendants lack sufficient information to admit or deny the allegations of Paragraph 12 of the Complaint, and therefore deny same and demand strict proof thereof.

22. Defendants admit so much of the allegations of Paragraph 13 of the Complaint as would allege that Plaintiff filed grievance number 2323-09 on or around August 17, 2009 and filed grievance number 0813-10 on or around March 17, 2010, that both grievances were returned to Plaintiff unprocessed because of Plaintiff's failure to comply with SCDC policy, and that, in the response to grievance number 0813-10, Plaintiff was advised to contact Ms. Melton in the Business Office to

address his concerns. Defendants deny all remaining allegations of Paragraph 13 of the Complaint and demand strict proof thereof. Defendants specifically deny that those grievances were properly filed or that they complied with SCDC policy, and further deny that Plaintiff has any cause of action against Defendants based on any theory contained within Paragraph 13 of the Complaint

23. Defendants lack sufficient information to admit or deny the allegations of Paragraph 14 of the Complaint, and therefore deny same and demand strict proof thereof.

24. Defendants admit so much of the allegations of Paragraph 15 of the Complaint as would allege that Plaintiff filed grievance number 1270-10 and that this grievance was returned to Plaintiff unprocessed because of Plaintiff's failure to comply with SCDC policy. Defendants deny all remaining allegations of Paragraph 15 of the Complaint and demand strict proof thereof. Defendants specifically deny that this grievance was properly filed or that it complied with SCDC policy, and further deny that Plaintiff has any cause of action against Defendants based on any theory contained within Paragraph 15 of the Complaint

25. Defendants admit so much of the allegations of Paragraph 16 of the Complaint as would allege that Plaintiff filed grievance number 1598-10 on or around June 7, 2010 and that this grievance was denied. Defendants deny all remaining allegations of Paragraph 16 of the Complaint and demand strict proof thereof. Defendants specifically deny that this grievance was properly filed or that it complied with SCDC policy, and further deny that Plaintiff has any cause of action against Defendants based on any theory contained within Paragraph 16 of the Complaint

26. Defendants lack sufficient information to admit or deny the allegations of Paragraph 17 of the Complaint, and therefore deny same and demand strict proof thereof

27. Paragraph 18 of the Complaint can be neither admitted nor denied and the Defendants herein reassert and reallege their answers to the prior allegations of the Complaint as set forth above.

28. Defendants deny the allegations of Paragraph 19 of the Complaint, including all subparts, and demand strict proof thereof.

29. Paragraph 20 of the Complaint can be neither admitted nor denied and the Defendants herein reassert and reallege their answers to the prior allegations of the Complaint as set forth above.

30. Defendants deny the allegations of Paragraph 21 of the Complaint, including all subparts, and demand strict proof thereof.

31. Paragraph 22 of the Complaint can be neither admitted nor denied and the Defendants herein reassert and reallege their answers to the prior allegations of the Complaint as set forth above.

32. Defendants deny the allegations of Paragraph 23 of the Complaint, including all subparts, and demand strict proof thereof.

33. Paragraph 24 of the Complaint can be neither admitted nor denied and the Defendants herein reassert and reallege their answers to the prior allegations of the Complaint as set forth above.

34. Defendants deny the allegations of Paragraph 25 of the Complaint, including all subparts, and demand strict proof thereof.

35. Paragraph 26 of the Complaint is a plea directed to the Court, and requires no response from Defendants; however, to the extent a response is required from Defendants, Defendants deny that Plaintiff.

36. Defendant denies all remaining allegations of the Complaint, including all prayers for damages and relief, and especially punitive damages, and demands that the case be dismissed with prejudice.

FOR A SEVENTH DEFENSE

37. The Complaint fails to state a cause of action against the Defendants.

FOR AN EIGHTH DEFENSE

38. The Complaint fails to state a claim against the Defendants upon which relief can be granted.

FOR A NINTH DEFENSE

39. The Complaint shows on its face that any alleged Federal questions are frivolous and insubstantial.

FOR A TENTH DEFENSE

40. Defendants deny that the matters asserted by the Plaintiff in the Complaint fall within the purview of 42 U.S.C. §1983. The Defendants deny that any constitutional rights of the Plaintiff have been violated and deny that the Defendants are, in any way, responsible for any willful or malicious acts towards Plaintiff.

41. Defendants, at all times relevant hereto, and during the performance or non-performance of the acts alleged in the Complaint, did not, either themselves or through their employees, officers, and employees, perform any acts or fail to perform any acts in bad faith, in a malicious manner, or with corrupt motives, and Defendants are therefore immune from suit.

FOR AN ELEVENTH DEFENSE

42. Defendants assert that the principle of respondeat superior does not apply to actions brought pursuant to 42 U.S.C. §1983.

FOR A TWELFTH DEFENSE

43. That at all times relevant hereto, the Defendants were acting as or through government employees, engaged in the performance of their official duties, and therefore are immune from liability pursuant to the South Carolina Tort Claims Act, S.C. Code Ann. §15-78-10 *et seq.* Defendants are specifically immune pursuant to S.C. Code Ann. §15-78-60(1), (2), (3), (4), (5), (17), (20), (21), (23)

and (25).

44. Further, any damages the Plaintiff suffered, which are hereby denied, would be limited by any cap on recovery as set forth at S.C. Code Ann. §15-78-120.

45. S.C. Code Ann. §15-78-120(b), bars the recovery of punitive damages in actions brought pursuant to the South Carolina Tort Claims Act. Accordingly, Plaintiff cannot recover punitive damages on any state law claims and all claims for such relief should be dismissed.

46. Further, Defendants affirmatively plead and assert all defenses, conditions of recovery, exceptions to waiver of immunity, limitations on liability, statutes of limitations, limitations as to damages and caps as to damages, as set forth in the South Carolina Tort Claims Act.

47. Defendants affirmatively assert that Plaintiff's claims are barred by the two year statute of limitations as set forth at S.C. Code Ann. §15-78-110.

FOR A THIRTEENTH DEFENSE

48. At all times relevant hereto, Defendants were acting as or through officers and officials of the State of South Carolina, engaged in the performance of their official duties, and acting as the alter ego of the State of South Carolina, and therefore this action is barred by the Eleventh Amendment to the Constitution of the United States.

FOR A FOURTEENTH DEFENSE

49. That at all times relevant hereto, Defendants were acting as or through employees, officers, and officials of the State of South Carolina, engaged in the performance of their official duties, and are therefore immune from liability and cannot be sued without an express waiver of sovereign immunity.

FOR A FIFTEENTH DEFENSE

50. That at all times relevant hereto, Defendants and Defendants' employees, officers, and

officials were engaged in the performance of their official duties and at no time violated any clearly established constitutional rights which were known or should have been known to them; therefore they are entitled to qualified immunity as a matter of law.

51. That at all times relevant hereto, Defendants and Defendants' employees, officers, and officials were governmental officials performing discretionary functions and actions which could reasonably have been thought consistent with the rights of Plaintiff and for which they are alleged to have violated, and they are therefore entitled to qualified immunity as a matter of law.

FOR A SIXTEENTH DEFENSE

52. Plaintiff has failed to exhaust his readily available administrative and state court remedies.

FOR A SEVENTEENTH DEFENSE

53. Defendants would show that such injury or loss as the Plaintiff may have sustained, if any, and the same is hereby expressly denied, was due to, caused and occasioned by the sole negligence, carelessness, recklessness and wantonness of Plaintiff at the time and date in question and the Defendants plead the Plaintiff's sole negligence as a complete bar to this action.

FOR AN EIGHTEENTH DEFENSE

54. The Defendants deny any negligence whatsoever and allege that the sole negligent acts of a third party or parties were the sole and proximate cause of injuries and damages to the Plaintiff, if any, and any one or more of those parties caused the injuries and damages to the Plaintiff.

55. These acts and omissions by the third party or parties were the sole and proximate cause of any injuries or damages to the Plaintiff and therefore the action against the Defendants should be dismissed.

FOR A NINETEENTH DEFENSE

56. If the Defendants were negligent and reckless in any respect, which is expressly denied, the Defendants are not liable to the Plaintiff for the resulting damages, if any, because of the intervening negligent, grossly negligent, reckless, willful and wanton acts of third parties, including those parties whose identities are unknown at the present time, which negligent and reckless acts on their part were not reasonably foreseeable, and intervened and acted as the direct and proximate cause of the damages, if any, sustained by the Plaintiff.

57. The Defendants assert that the intervening acts of a third party or parties were the sole and proximate cause of injuries to the Plaintiff and the action should be dismissed.

FOR A TWENTIETH DEFENSE

58. Defendants would further show, upon information and belief, and in the alternative, that if Defendants were negligent, which Defendants deny, then Plaintiff or his agent was likewise negligent and Plaintiff's negligence, carelessness and recklessness directly and proximately caused Plaintiff's or his agent's damages and injuries and that Plaintiff's or his agent's negligence, carelessness and recklessness exceed any negligence, carelessness or recklessness on the part of the Defendants and therefore, Defendants plead Plaintiff's greater degree of comparative fault as a complete bar to Plaintiff's recovery against Defendants.

FOR A TWENTY-FIRST DEFENSE

59. If Defendants were negligent in any respect, which is expressly denied, and if Defendants' conduct operated as any cause of Plaintiff's injuries or damages, if any, which is also expressly denied, Defendants are entitled to a determination as to the percentage of Plaintiff's negligent, grossly negligent, reckless, willful and wanton conduct which contributed to this incident and to a reduction of any amount awarded to Plaintiff equal to the percentage of Plaintiff's own negligence, gross

negligence, recklessness, willful and wanton conduct.

FOR A TWENTY-SECOND DEFENSE

60. Plaintiff's claims are barred by the doctrines of *res judicata* and collateral estoppel.

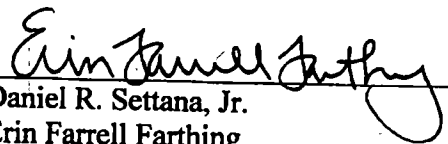
FOR A TWENTY-THIRD DEFENSE

61. Plaintiff cannot establish the prerequisites for an award of declaratory relief.

FOR A TWENTY-FOURTH DEFENSE

62. Plaintiff cannot establish the prerequisites for an award of injunctive relief.

WHEREFORE, the Defendants pray that Plaintiff's action be dismissed, or in the alternative for a jury trial and for such other and further relief as this Court deems just and proper.



Daniel R. Settana, Jr.
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(803) 256-4645
Attorneys for Defendants

Columbia, South Carolina
March 13, 2013

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF RICHLAND)

C/A No: 2013-CP-40-0301

Basil W. Akbar, #065498)

Plaintiff,)

v.)

**DEFENDANTS' ANSWERS TO
PLAINTIFF'S REQUEST FOR
ADMISSION**

South Carolina Department of Corrections,)

Bill Byers, Martha Roof, Debrah Long,)

Lisia Johnson, Ann and John Doe,)

Defendant.)

TO: BASIL W. AKBAR, #65498, PRO SE PLAINTIFF:

Defendants hereby respond to Plaintiff's Request for Admission pursuant to Rule 36 of the South Carolina Rules of Civil Procedure as follows:

1. Admit that between July 1979 thru April 1981, Basil W. Akbar (hereinafter, Akbar), was assigned to SCDC's Work Release Programs, and employed at Owens Electric & Steel Co.; and weekly deductions were taken for Mandatory Long Term Escrow Savings Account.

RESPONSE: Defendants object to this Request because there is an outstanding Motion to Dismiss in this case seeking the dismissal of this case. Defendants further object to this Request for Admission on the grounds that it is vague, ambiguous, and misleading. Defendants also object to this request because the information it seeks is neither relevant to the subject matter involved in the pending action, nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and notwithstanding these objections, to the extent a response to required, Defendants deny the allegations as worded. Defendants reserve their right to supplement their answer should Defendants receive additional documentation regarding this matter.

* → 2. Admit that balance of Escrow Account was ^{Not} released or transferred to Akbar's general account on April 8, 1981 date of release on provisional parole.

EFF
36.

RESPONSE: Defendants object to this Request because there is an outstanding Motion to Dismiss in this case seeking the dismissal of this case. Defendants further object to this Request for Admission on the grounds that it is vague, ambiguous, and misleading. Defendants also object to this request because the information it seeks is neither relevant to the subject matter involved in the pending action, nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and notwithstanding these objections, to the extent a response to required, Defendants deny the allegations as worded. Defendants reserve their right to supplement their answer should Defendants receive additional documentation regarding this matter.

3. Admit that on October 22, 2005, Akbar initiated correspondence with SCDC's

Financial Business Office [Ms. M. Roof], and forward a second request on December 1, 2008, and

July 7, 2009

Request was answered with unrelate set of facts by Ms. D/ Long.

RESPONSE: Defendants object to this Request because there is an outstanding Motion to Dismiss in this case seeking the dismissal of this case. Defendants further object to this Request for Admission on the grounds that it is vague, ambiguous, and misleading. Defendants also object to this request because the information it seeks is neither relevant to the subject matter involved in the pending action, nor reasonably calculated to lead to the discovery of admissible evidence. Defendants finally object to the extent that this Request calls for speculation and calls for information Defendants do not have in their possession. Subject to and notwithstanding these objections, to the extent a response to required, Defendants admit only so much of the allegations of Request to Admit number 3 as would allege that Plaintiff wrote a Request to Staff to Defendant Roof in December 2008, and that Plaintiff received a response to this Request to Staff dated June 18, 2009. Defendants deny the remaining allegations of Request to Admit number 3.

4. Admit that on July 2, 2009, Akbar forwarded a third request via certified mail to

[Ms. D. Long & Ms. M. Roof], pursuant to S.C. Code §§30-40-10, et.], has not been responded to.

RESPONSE: Defendants object to this Request because there is an outstanding Motion to Dismiss in this case seeking the dismissal of this case. Defendants further object to this Request for Admission on the grounds that it is vague, ambiguous, and misleading. Defendants also object to this request because the information it seeks is neither relevant to the subject matter involved in the pending action, nor reasonably calculated to lead to the discovery of admissible evidence. Defendants finally object to the extent that this Request calls for speculation and calls for information Defendants do not have in their possession. Subject to and notwithstanding these objections, to the extent a response to required, Defendants deny this Request for Admission at present. Defendants reserve their right to supplement their answer should Defendants receive additional documentation regarding this matter.

5. Admit that on August 17, 2009, Akbar filed a Step 1 grievance, and returned unprocess, by Ms. L. Johnson, citing, SCDC Policy GA-01.12, "You have 15 days from the date of the alleged incident to file a grievance on this issue."

RESPONSE: Defendants object to this Request because there is an outstanding Motion to Dismiss in this case seeking the dismissal of this case. Defendants further object to this Request for Admission on the grounds that it is vague, ambiguous, and misleading. Defendants also object to this request because the information it seeks is neither relevant to the subject matter involved in the pending action, nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and notwithstanding these objections, to the extent a response to required, Defendants admit only so much of the allegations of Request to Admit number 5 as would allege that Plaintiff filed a Step 1 grievance on August 17, 2009, that this grievance was returned to Plaintiff unprocessed because of Plaintiff's failure to comply with SCDC policy, and that, in the response to this grievance, Plaintiff was advised that, pursuant to SCDC policy GA-01.12, Plaintiff had "fifteen days from the date of the alleged incident to file a grievance on this issue." Defendants deny any remaining allegations of Request to Admit number 5.

6. Admit that on March 17, 2010, Akbar filed a second Step 1 grievance and IGC L. Johnson recommended that Akbar submit request to Ms. Melton Lee C.I. Business office, and.

RESPONSE: Defendants object to this Request because there is an outstanding Motion to Dismiss in this case seeking the dismissal of this case. Defendants further object to this Request for Admission on the grounds that it is vague, ambiguous, and misleading. Defendants also object to this request because the information it seeks is neither relevant to the subject matter involved in the pending action, nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and notwithstanding these objections, to the extent a response to required, Defendants admit only so much of the allegations of Request to Admit number 6 as would allege that Plaintiff filed a Step 1 grievance on March 17, 2010, that this grievance was returned to Plaintiff unprocessed because of Plaintiff's failure to comply with SCDC policy, and that, in the response to this grievance, Plaintiff was advised to contact Ms. Melton in the Business Office to address his concerns. Defendants deny any remaining allegations of Request to Admit number 6.

7. Admit that Akbar was informed for the first, that he do not have an account of work release center funds... as a result filed a third grievance on April 29, 2010, and returned unprocessed.

RESPONSE: Defendants object to this Request because there is an outstanding Motion to Dismiss in this case seeking the dismissal of this case. Defendants further object to this Request for Admission on the grounds that it is vague, ambiguous, and

misleading. Defendants also object to this request because the information it seeks is neither relevant to the subject matter involved in the pending action, nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and notwithstanding these objections, to the extent a response to required, Defendants admit only so much of the allegations of Request to Admit number 7 as would allege that Plaintiff filed a grievance on April 29, 2010, which was returned unprocessed because of Plaintiff's failure to comply with SCDC policy. Defendants deny the remaining allegations of Request to Admit number 7 as worded.

8. Admit that on June 7, 2010, Akbar filed grievance, #No. Lee.C.I. 1598-10 concerning the IGC L. Johnson impeding access to utilize grievance system in instant matter.

RESPONSE: Defendants object to this Request because there is an outstanding Motion to Dismiss in this case seeking the dismissal of this case. Defendants further object to this Request for Admission on the grounds that it is vague, ambiguous, and misleading. Defendants also object to this request because the information it seeks is neither relevant to the subject matter involved in the pending action, nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and notwithstanding these objections, to the extent a response to required, Defendants admit only so much of the allegations of Request to Admit number 8 as would allege that Plaintiff filed a grievance numbered LeeCI 1598-10 on June 7, 2010 which made allegations against Defendant Johnson. Defendants deny the remaining allegations of Request to Admit number 8.

9. Admit that grievance #No. Lee C.I. 1598-10, Agency final response was rendered/returned for grievant signature until April 20, 2011. *Approximately 300 days*

RESPONSE: Defendants object to this Request because there is an outstanding Motion to Dismiss in this case seeking the dismissal of this case. Defendants further object to this Request for Admission on the grounds that it is vague, ambiguous, and misleading. Defendants also object to this request because the information it seeks is neither relevant to the subject matter involved in the pending action, nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and notwithstanding these objections, to the extent a response to required, Defendants deny this Request to Admit as worded.

10. Admit that SCDC's grievance policy GA-01.12 Mandate that Grievance be processed within 180 days.

RESPONSE: Defendants object to this Request because there is an outstanding Motion to Dismiss in this case seeking the dismissal of this case. Defendants further object to this Request for Admission on the grounds that it is vague, ambiguous, and misleading. Defendants also object to this request because the information it seeks is neither relevant to the subject matter involved in the pending action, nor reasonably

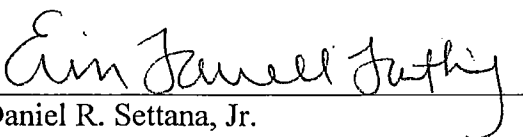
calculated to lead to the discovery of admissible evidence. Subject to and notwithstanding these objections, to the extent a response to required, Defendants deny this Request to Admit as worded.

11. Admit that Akbar has a statutory liberty interest to his property (money) in SCDC Escrow Account, protected by Due Process Rights.

RESPONSE: Defendants object to this Request because there is an outstanding Motion to Dismiss in this case seeking the dismissal of this case. Defendants further object to this Request for Admission on the grounds that it is vague, ambiguous, and misleading. Defendants also object to this request because the information it seeks is neither relevant to the subject matter involved in the pending action, nor reasonably calculated to lead to the discovery of admissible evidence. Finally, Defendants object to this Request to Admit because it calls for a legal conclusion. Subject to and notwithstanding these objections, to the extent a response to required, Defendants deny this Request to Admit as worded.

12. Admit that Akbar never closed his work release escrow account and was never servered with notice of alleged closure, or status of account... and that Work Release Long Term savings was deposited into a interest bearing account pursuant to Law.

RESPONSE: Defendants object to this Request because there is an outstanding Motion to Dismiss in this case seeking the dismissal of this case. Defendants further object to this Request for Admission on the grounds that it is vague, ambiguous, and misleading. Defendants also object to this request because the information it seeks is neither relevant to the subject matter involved in the pending action, nor reasonably calculated to lead to the discovery of admissible evidence. Subject to and notwithstanding these objections, to the extent a response to required, Defendants deny this Request to Admit.


Daniel R. Settana, Jr.
Erin Farrell Farthing
McKay, Cauthen, Settana & Stublely, P.A.
1303 Blanding Street (29201)
P.O. Drawer 7217
Columbia, SC 29202
(803) 256-4645
Attorneys for Defendants

Columbia, South Carolina
April 4, 2013

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)
)
Basil W. Akbar, #065498)
)
Plaintiff,)
)
v.)
)
South Carolina Department of Corrections,)
Bill Byers, Martha Roof, Debrah Long,)
Lisia Johnson, Ann and John Doe,)
)
Defendant.)
_____)

IN THE COURT OF COMMON PLEAS

C/A No: 2013-CP-40-0301

AFFIDAVIT OF ANN HALLMAN

PERSONALLY APPEARED before me, Ann Hallman, who first being duly sworn deposes and avers the following:

1) I am currently employed by the State of South Carolina and the South Carolina Department of Corrections (SCDC) as the Branch Chief of Inmate Grievances. I have held this position since May 2011. I was the Inmate Grievance Administrator assigned to Broad River Correctional Institution from July 2007 until May 2011

2) I certify that the attached copy of the following documents pertaining to Inmate Basil W. Akbar, #065498, are true and accurate copies of the records which are maintained by the South Carolina Department of Corrections in the normal course of business.

3) The attached documents consist of:

a) Step 1 Grievance filed by Basil W. Akbar, #065498, on August 17, 2009 (SCDC Grievance Lee CI 2323-09).

b) Step 1 Grievance filed by Basil W. Akbar, #065498, on March 17, 2010 (SCDC Grievance Lee CI 0813-10).

c) Step 1 Grievance filed by Basil W. Akbar, #065498, on April 29, 2010 (SCDC Grievance Lee CI 1270-10).

d) Step 1 Grievance filed by Basil W. Akbar, #065498, on June 2, 2010 (SCDC Grievance Lee CI 1598-10) with attachments.

e) Step 2 Grievance regarding Basil W. Akbar, #065498, forwarded to the Central Office on March 29, 2011 (SCDC Grievance Lee CI 1598-10).

FURTHER THE AFFIANT SAYETH NOT.

Ann Hallman
Ann Hallman

SWORN TO AND SUBSCRIBED before me

This 22nd day of July, 2013.

Christy L. Miller
NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission Expires: 10/26/2022

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 1

INMATE NAME: Basil W. Akbar
SCDC NUMBER: 065498
INSTITUTION: Lee County AUG 18 2009
HOUSING UNIT: Richland C-119 PR
WORK ASSIGNMENT: West Yard P.I.

Office Use Only
Grievance No. Lee CI #2323-09
Code: General my
Policy 8
Disc. Hear. _____
Class. _____
Date Received 8/19/09
IGC Initials AG

STATE GRIEVANCE (include documentation, and date of incident; if SCDC Policy, indicate which policy) ON Oct. 22, 08, it was initially called to the attention of Ms. Roof Financial Accounting Branch, Questions Related to My [1979-1981] Work Release Mandatory Long Term Escrow Savings Account, Status and balance that was Not Release to me upon Parole April 1981, Nor transferred to my account. ON July 2, 2009, I wrote Ms. Long via certified Mail [2007-3020-0003-0159-6940] Received by Amos Ackerman 7/23/09, to no avail. Failure to Return Property upon Release denied due PROCESS, Money is Property. There is No Question that the funds in My Prison Account is a Protected Property Interest, and that I am Pride to know the balance and Status of said Account. It Appears that a Tort has occurred Regarding said Account from a breach of legal duties, and an attempt to conceal the wrong.

ACTION REQUESTED: (1) That I be Promptly informed of the balance in My Work Release Mandatory Long Term Escrow Savings Account, That balance be transferred to My E. H. Cooper Account with Interest.

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT:

Wrote: Ms. Roof, Financial Account Branch Headquarters, Oct. 22, 08 & Dec. 1, 08, No Reply
Ms. Melton, Lee C.I. Financial Office, Feb. 8, 09 & April 3, 09
Ms. Long, Financial Account Branch Headquarters, March 2, 09 & June 18, 09

* Family Member Made Numerous Phone calls
From February thru August 2009, No Return calls.

Basil W. Akbar
Grievant Signature

Aug. 17, 2009
Date

ACTION TAKEN BY IGC:

This grievance is being returned to you unprocessed. You have exceeded the appropriate time frame to file a grievance on this issue. According to Agency Policy/Procedure GA-01.12, you have (15) fifteen days from the date of the alleged incident to file a grievance on this issue. Your grievance is being returned to you with no action taken.

L. Johnson
IGC Signature

10/5/09
Date

☒ I accept the action taken by the IGC and consider the matter closed.
☐ I do not accept the action taken and wish to appeal.

43

Grievant Signature

Date

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 1

INMATE NAME: Basil W. Akbar
SCDC NUMBER: 065498
INSTITUTION: Lee County
HOUSING UNIT: Richland C-119
WORK ASSIGNMENT: Horticulture

Office Use Only

Grievance No. LEECT 0813-10

Code: General only

Policy _____

Disc. Hear. _____

Class. _____

Date Received 3/22/10

IGC Initials 20

STATE GRIEVANCE (include documentation, and date of incident; if SCDC Policy, indicate which policy) ON Feb. 26, 2010, I sought the status and balance of my SCDC ESCROW Account # 065498, Mandatory Long Term Savings Accounts from its inception, that was NEVER CLOSE, via Request To Staff Member, directed to Ms. Roof and Ms. Long at Finance Account Branch Head Quarters, said staff members has intentionally ignored the detail facts presented. Instead alluded to a date [3-30-74, Reimbursement for lost property] unrelated to matter of concern, of which I have since made a corrective reply to their deformed misinformation. I have reasons to believe that the Finance Account Branch is in opposition to me receiving status of accounts and is hindering release of personal information regarding my 1979-1981 April 8, WORK RELEASE Long Term Savings Accounts. I believe that funds has been removed/stolen from my accounts, or that someone is attempting to defraud and swindle me of my personal money.

ACTION REQUESTED:

(1). I want a chronicle narrative of the status of my Accounts with interest (2). balance of Accounts Released and Transferred into my E.H. COOPER Account.

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT:

Wrote:

MS. Roof and MS. Long, via Request To Staff Member, Feb. 26, 2010 - Pending Reply
MR. Ozmist Commissioner, " " " March 7, 2010 - Pending Reply

R. S. W. Akk March 17, 2010
Grievant Signature Date

ACTION TAKEN BY IGC:

This grievance is being returned to you unprocessed for the following reasons. You have exceeded the appropriate time frame to file this grievance. According to Policy/Procedure GA-01.12, you have (15) fifteen days from the date of the incident to file a grievance. Additionally, I suggest that you submit a request to staff to Ms. Melton in the Business Office to address this issue.

☒ I accept the action taken by the IGC and consider the matter closed.
☐ I do not accept the action taken and wish to appeal. *M*

R. John 4/21/10
IGC Signature Date

Grievant Signature _____ Date _____

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM

STEP 1

INMATE NAME: Basil W. Akbar
SCDC NUMBER: 065498
INSTITUTION: Lee County
HOUSING UNIT: Richland C-119
WORK ASSIGNMENT: Horticulture

Office Use Only
Grievance No. Lee CI 1270-10
Code: General my
Policy _____
Disc. Hear. _____
Class. _____
Date Received 5/5/10
IGC Initials RJ

STATE GRIEVANCE (include documentation, and date of incident; if SCDC Policy, indicate which policy) Upon Submitting a Request to Staff Member [dated April 23, 2010 and returned April 28, 2010] to MS. Melton in Lee Co. Business Office, at suggestion of MS. L. JOHNSON Lee Co. Grievance Clerk, April 21, 2010, I was taken by surprise and advised that, Quote: "According to the system, you do not have an account of work center funds. That account was probably closed and archived when you were release in 1981," said work release escrow account was never closed, and Trust Account employee(s)/official(s) in the course of their duties, has either oversighted, or did fraudulent appropriated to use of property (money) in his/her possession owed by Grievant without consent over a thousand dollars constituting embezzlement and larceny.

ACTION REQUESTED:

That work release escrow account be made transparent and accountable of funds with interest, and/or arrest warrant issued if funds are missing from account, and make copy of escrow archived record available.

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT:

Wrote: Ms. Melton Business office April 23, 2010

Basil W. Akbar
Grievant Signature

4/29/2010
Date

ACTION TAKEN BY IGC:

This is a duplicate of grievance LEE CI #0813-10, filed on 03/17/10. I did advise you to submit a request to staff to Ms. Melton to address your concerns, however this is still the same issue as Lee CI 0813-10 that was returned to you on 04-21-10. This grievance is being returned to you with no action taken.

- ☒ I accept the action taken by the IGC and consider the matter closed.
☐ I do not accept the action taken and wish to appeal.

45

[Signature]
IGC Signature

5/26/10
Date

[Signature]
Grievant Signature

Date

REQUIRES URGENT RESPONSE RESPECTFULLY
SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 1

INMATE NAME: Basil W. Akbar JUN 16 2010
SCDC NUMBER: 065498 INMATE GRIEVANCE
INSTITUTION: Lee County
HOUSING UNIT: Richland C-119 JUN 09 2010
WORK ASSIGNMENT: Horticulture

Office Use Only
Grievance No. Lee C.I. 1598-10
Code: General DP
Policy _____
Disc. Hear. _____
Class. _____
Date Received 6/10/10
IGC Initials _____

STATE GRIEVANCE (include documentation, and date of incident; if SCDC Policy, indicate which policy) GRIEVANCE CLERK
L. Johnson's Reckless indiscretion and conspiracy against my Civil Rights. Where Grievant
Sought to have his E.H. Cooper Work Release Mandatory Long Term Escrow Savings Account
Made transparent to him, as to status & balance which Head Quarters Financial Branch
fail to do, lead to reasons to believe that funds from my account #065498 was missing or
unjustly seized without notice or consent, depriving me of property in violation of 4th and
14th Amend. State & Federal Const.. Grievant has attempted to use grievance system to remedy
complaint [Lee C.I. #2323-09; Lee C.I. #0813-10; Lee C.I. #1270-10]. L. Johnson has repeatedly and erroneously
denied me access to system upon insufficient reasoning. My interest to funds in my
Personal Account is a Protected Property interest. * Continue on attached sheet *

ACTION REQUESTED: (1) That Work Release Account #065498 be made transparent to me.
(2) That Grievances #Lee C.I. 2323-09; #Lee C.I. 0813-10; & Lee C.I. 1270-10 be processed. (3) That
L. Johnson and C. James be Reprimanded and Replaced.

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT:

Wrote: L. Johnson April 23, 10 ... C. James disposition Reply April 23, 2010
M. Roof & D. Long February 26, 2010 ... Reply Pending

Basil W. Akbar June 7, 2010
Grievant Signature Date

ACTION TAKEN BY IGC:

In Accordance with Agency Policy, GA 01.12, "Inmate Grievance System", 17.3 A grievance
concerning the performance of any Institutional IGC/IGA shall be referred to the Chief/Designee,
Inmate Grievance Branch, for investigation and response. Grievance forwarded on 06/10/10. lmj

- ☐ I accept the action taken by the IGC and consider the matter closed.
☐ I do not accept the action taken and wish to appeal. 46c

IGC Signature Date

Grievant Signature Date
EXHIBITS ATTACHED 6 pages

* CONTINUE FROM STEP 1 FORM:

THERE IS NO STATUTE OF LIMITATION TO SEEK STATUS/BALANCE IN AN ACCOUNT. GRIEVANT HAS AN ABSOLUTE UNQUALIFIED RIGHT TO ACCESS AND SEEK STATUS OF ANY AND ALL PERSONAL SAVINGS ACCOUNT MANAGED BY SDC, SUCH INQUIRY DOES NOT DEPEND ON WHETHER AN INCIDENT HAS OCCURRED AS L. JOHNSON HAS ALLUDED ON EACH GRIEVANCE. HOWEVER NO INCIDENT EXISTS UNTIL GRIEVANT IS MADE AWARE OF WRONG, OR DEPRIVED OF AN INVESTED RIGHT, AND/OR IMPENDING THREAT TO PERSON/PROPERTY. SUSPICION WAS AROUSE AUGUST 2009, SEE EX. #1. ON JULY 7, 09 GRIEVANT REFUTED D. LONG'S ERRONEOUS ACCOUNT VIA CERTIFIED REQUEST TO STAFF, CURRENTLY PENDING REPLY, SEE EX. #2.

ON AUGUST 17, 09 INITIAL GRIEVANCE WAS PROPERLY FILED. MOREOVER, GRIEVANT WAS NOT OFFICIALLY INFORMED OF SEIZURE OF HIS ACCOUNT OR DISCLOSED TO GRIEVANT UNTIL APRIL 28, 10, SEE EX. #3, AND GRIEVANCE WAS PROMPTLY AND PROPERLY FILED. NO FAIR NOTICE WAS GIVEN PRIOR TO SAID DATE, THEREFORE GRIEVANT SHOULD NOT HAVE BEEN SANCTIONED WITH A TIME FRAME.

L. JOHNSON HAS IMPOSED AN ILLEGAL BURDEN ON ME, AND IMPEDED LEGAL RIGHTS TO INQUIRE AND SEEK RELIEF, OR EXHAUST ADMINISTRATIVE INFORMAL RESOLUTION THROUGH STEPS IN GRIEVANCE PROCEDURE, AND SHE HAS EXCEEDED HER AUTHORITY AND RESPONSIBILITY BY WEIGHING THE MERITS OF COMPLAINT AND MAKING ADMINISTRATIVE DECISION. MY PERSONAL ACCOUNT DOES NOT LIE UPON THE WHIM OF A GRIEVANCE CLERK.

L. JOHNSON IS CLEARLY OBLIVIOUS OF HER DUTY OWED TO ME/GENERAL POPULATION IN AN UNBIAS MANNER, AND IS INSENSITIVE TO RECOGNIZE OR ACKNOWLEDGE WRONG AND ABUSIVE TREATMENT, DUE TO HER OBLIGATION/INVESTED INTEREST TO RESOLVE DISPUTES IN FAVOR OF AGENCY, STAFF AND EMPLOYEES. L. JOHNSON'S ACTION AND OMISSION ARE KNOWINGLY, INTENTIONAL AND CALCULATED TO DENY JUST RELIEF, AND TO IMPLY THAT I HAVE NO RIGHT TO KNOW ABOUT MY PERSONAL PROPERTY (MONEYS), OR DEMAND INFORMATION FROM THE ENTITY (SDC) CHARGED WITH THE FIDUCIARY DUTY/OBLIGATION TO ME THE BENEFICIARY OF SAID TRUST, APPARENTLY THIS OBLIGATION HAS BEEN BREACHED AND L. JOHNSON IS CONSPIRING WITH RESPONSIBLE OFFICIALS TO FURTHER THE CAUSE.

IT IS ALSO APPARENT THAT THE GRIEVANCE SYSTEM IS INEFFECTIVE, DISCRIMINATORY AND FUTILE, AND SERVES MERELY AS A PRELIMINARY STEP TOWARD LEGAL ACTION. L. JOHNSON'S OMISSION/CONDUCT IS VERY SERIOUS AND MAY CONSTITUTE A FELONY CONSPIRACY AGAINST CIVIL RIGHTS; OBSTRUCTION OF JUSTICE, ETC., FOR FAILURE TO ACT AFTER BEING ALERTED OF POSSIBLE CRIMINAL MISCONDUCT.

CC: CORR. & PENALOGY
SLED
FILE

B. S. Akh
Date: JUNE 7, 2010

47

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 2

INMATE NAME: Basil Akbar
SCDC NUMBER: 065498
INSTITUTION: Lee CI
HOUSING UNIT: Rich 119B
WORK ASSIGNMENT: _____

Office Use Only
Grievance No. 100 CI 1598-10
Code: General IP
Policy _____
Disc. Hear. _____
Class. _____
Date Received 4/14/11
IGC Initials _____

INMATE'S REASON FOR APPEAL (state specific dissatisfaction):

In accordance with SCDC Policy GA-01.12, "Inmate Grievance System," 17.3, "A grievance concerning the performance of any Institutional Inmate Grievance Coordinator shall be referred to the Chief/Designee, Inmate Grievance Branch, for investigation and response." Therefore your grievance has been forwarded to Central Office for a response.

for M. White 3/28/11
Grievant Signature Date

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

I have reviewed your grievance. Documentation provided reveals grievance(s) Lee CI 2323-09 and Lee CI 0813-10 were returned to you unprocessed for exceeding the appropriate timeframe by Ms. Johnson, Lee Institutional Grievance Coordinator on October 5, 2009 and April 21, 2010. In accordance with Agency Policy GA-01.12, "Inmate Grievance System," you have fifteen (15) days from the date of an incident to file a grievance. Agency records indicate grievance Lee CI 1270-10 was returned to you unprocessed as a duplicate to Lee CI 0813-10. The allegations you have raised against IGC Johnson cannot be substantiated.

Therefore, your grievance is denied.

You may appeal this decision under the Administrative Procedures Act to the Administrative Law Court. In order to appeal, you must fill out the attached Notice of Appeal Form and submit it as instructed on the form within 30 days of receipt.

I'm refusing to sign stating "It's not my fault" and I will be waiving my rights due to order". This is the 2nd attempt to get IGC to sign
Witness: [Signature] 4/26/11

[Signature] 4/8/11
Signature Date

The decision rendered by the responsible official exhausts the appeal process of the Inmate Grievance Procedure. I hereby acknowledge receipt of the official's response and understand this is the Agency's final response to this matter.

Grievant Signature

Date

IGC Signature

Date

(SEE REVERSE SIDE FOR INSTRUCTIONS)

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Basil W. Akbar, #065498

Plaintiff,

v.

South Carolina Department of Corrections,
Bill Byers, Martha Roof, Debrah Long,
Lisia Johnson, Ann and John Doe,

Defendant.

IN THE COURT OF COMMON PLEAS

C/A No: 2013-CP-40-0301

AFFIDAVIT OF NOEL HEBERT

PERSONALLY APPEARED before me, Noel Hebert, who first being duly sworn deposes and avers the following:

- 1) I am currently employed by the State of South Carolina and the South Carolina Department of Corrections (SCDC) as an Accounting Manager. I have held this position since November 2011.
- 2) I have reviewed the employment and financial records for Inmate Basil W. Akbar, #065498, which are maintained by the South Carolina Department of Corrections in the normal course of business.
- 3) These records reflect that Inmate Akbar was employed in an SCDC work program from in or around March 1980 until in or around April 1981, when he was released on parole.
- 4) If Inmate Akbar had any funds remaining from his work program, it would be contained within a work center account with the SCDC. Inmate Akbar's records reflect that Inmate Akbar does not have any funds in a work center account with the SCDC. In fact, Inmate

Akbar does not have a work center account with the SCDC, and has not had one since at least 1994.

FURTHER THE AFFIANT SAYETH NOT.

Noel Hebert
Noel Hebert

SWORN TO AND SUBSCRIBED before me
This 23 day of July, 2013.

Carla Spivey
NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires: June 16, 2021

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Basil W. Akbar,

Plaintiff,

v.

South Carolina Department of Corrections,

Bill Byers, Martha Roof, Debrah Long,

Lisia Johnson, Ann and John Doe,

Defendant.

IN THE COURT OF COMMON PLEAS

C/A No: 2013-CP-40-0301

**MEMORANDUM OF LAW IN
SUPPORT OF DEFENDANTS'
MOTION TO DISMISS AND FOR
SUMMARY JUDGMENT**

FACTS

Plaintiff Basil W. Akbar, #310671 ("Plaintiff") is presently confined to the Lee Correctional Institution of the South Carolina Department of Corrections ("SCDC") pursuant to orders of commitment of the Clerk of Court for Richland County. Plaintiff was convicted of murder September 1971. (*See Exhibit A*). Plaintiff received a life sentence, but is eligible for parole. Plaintiff was released on parole in or around April 1981. Plaintiff was arrested for a number of drug offenses, and his parole was revoked in 1985. (*See Id.*). At that time, Plaintiff was returned to the custody of the SCDC, where he has been held since that time, and is currently serving the remainder of his life sentence. (*See Id.*).

In his Complaint, which Plaintiff contends has been brought pursuant to the provisions of the South Carolina Tort Claims Act, S.C. Code Ann. §15-78-10, *et. seq.*, Plaintiff alleges that he was employed in an SCDC Work Release Program from July 1979 through April 1981¹, and that, during that time weekly deductions were taken for "Mandatory Long Term Escrow Savings

¹ Plaintiff's records actually indicate Plaintiff was employed in an SCDC work program from in or around March 1980 until in or around April 1981 (*See Exhibit A and Affidavit of Noel Hebert*).

Account” and for room and board. Plaintiff contends that, at the time of his release on parole in 1981, the balance of his escrow account was not released.

While Plaintiff was returned to the custody of the SCDC in 1985, Plaintiff apparently did not inquire regarding the funds he alleges he did not receive until October 2008. Plaintiff filed three separate grievances regarding these alleged funds in 2009 and 2010, but each were unprocessed as untimely. (See Exhibit B). Plaintiff appealed the decision from one of these grievances to the South Carolina Administrative Law Court, but his appeal was dismissed by Order dated April 28, 2011 based on Plaintiff’s failure to exhaust his administrative remedies. (See Exhibit C). There is no indication that the Plaintiff appealed that decision.

The Plaintiff filed the present action on January 16, 2013. Defendants filed a Motion to Dismiss on February 27, 2013, as well as a Motion to Strike Plaintiff’s claims for punitive damages under S.C. Code Ann. §5-78-120(b). In addition to the Motion to Dismiss, Defendants also filed a Motion for Summary Judgment on all allegations within Plaintiff’s Complaint. While Defendants’ Motions are based on a number of grounds, the primary grounds for those Motions are that Plaintiff failed to file his Complaint within the statutorily prescribed period of time, and therefore should be barred by the applicable statute of limitations, and that Plaintiff has failed to set forth a claim against Defendants. This memorandum is submitted in support of those Motions.

LEGAL ARGUMENT

1) Plaintiff’s Claim is Barred by the Two-Year Statute of Limitations for Causes of Action Arising Under the South Carolina Tort Claims Act

Under the South Carolina Tort Claims Act, S.C. Code Ann. § 15-78-10 to -220, a claimant must commence an action for damages within two (2) years after the date the loss was or should have been discovered. S.C. Code Ann. § 15-78-110. According to the statute, “loss” is

defined as "bodily injury, disease, death, or damage to tangible property, **including lost wages and economic loss** to the person who suffered the injury, disease, or death, pain and suffering, mental anguish, and any other element of actual damages recoverable in actions for negligence, but does not include the intentional infliction of emotional harm." S.C. Code Ann. § 15-78-30(f) (emphasis added).

Under the discovery rule, "the statute of limitations does not run from the date of the negligent act, but from the date when the *injury* resulting from the wrongful conduct either is discovered or *may be* discovered by the exercise of reasonable diligence." *McClain v. Jarrard*, M.D., 354 S.C. 218, 220, 580 S.E. 2d 763, 764 (S.C. App. 2003) (citing *Wilson v. Shannon*, 299 S.C. 512, 513, 386 S.E.2d 257, 258 (S.C. App. 1989)); see also *Strong, supra*; *Knox v. Greenville Hosp. System*, 608 S.E.2d 459 (S.C. App. 2005); *Arant v. Kressler*, 489 S.E.2d 206 (1997); *Preer v. Mims*, 476 S.E.2d 472 (1996); *Anderson v. Short*, 476 S.E.2d 475 (1996).

The date on which discovery should be made is an objective, not subjective question. *Kreutner v. David*, 320 S.C. 283, 465 S.E.2d 88 (1995). In other words,

whether the particular plaintiff actually knew he had a claim is not the test. Rather, courts must decide whether the circumstances of the case would put a person of common knowledge and experience on notice that some right of his has been invaded, or that some claim against another party might exist.

Young v. South Carolina Dep't of Corr., 333 S.C. 714, 719, 511 S.E.2d 413, 416 (Ct. App. 1999). The fact that the injured party does not comprehend the full extent of his injuries is immaterial. *Dean v. Ruscon Corp.*, 321 S.C. 360, 364, 468 S.E.2d 645, 647 (1996). "The statute of limitations is not tolled during the period of time in which a plaintiff is merely unaware of the extent of an actionable injury." *Young v. South Carolina Dept. of Corr.*, 333 S.C. 714, 720, 511 S.E.2d 413, 416 (Ct.App.1999).

In applying this reasonable diligence analysis under the discovery rule, the Court stated, "an injured party must act with some promptness where facts and circumstances of the injury would put a person of common knowledge and experience on notice that some right of his had been invaded or that *some claim against another party might exist.*" *McClain v. Jarrard, M.D.*, 354 S.C. 218, 580 S.E. 2d 763 (S.C. App. 2003), *citing Strong, supra*. The statute of limitations begins to run from this point and not when advice of counsel is sought or a full-blown theory of recovery is developed. *Id.*; *see also Garner*, 312 S.C. at 485, 435 S.E.2d at 849.

In the present case, the Plaintiff contends, without any evidence in support, that a portion of the wages he earned from 1979-1981 were withheld by the SCDC in an escrow account. Plaintiff further contends that the funds contained in this account should have been disbursed to him upon his release on parole in 1981, but that they were not. Plaintiff did not file the present lawsuit until January 16, 2013, more than 30 years after any cause of action he may have arising out of his allegations accrued.

Further, while Plaintiff contends that he was only informed "for the first time 'February 9, 2009'" that he did not have a "Work Center" funds account, Plaintiff has not attributed for why he waited 27 years after he was released on parole, and 23 years after he was placed back into the custody of the SCDC to inquire into these funds.² Further, Plaintiff still did not file the present lawsuit until almost four years after he was informed that he did not have a "Work Center" funds account.

² Further, the fact that the Plaintiff waited more than 30 years after he alleges he should have received the funds in his escrow account has greatly prejudiced Defendants and put them at a significant disadvantage in trying to defend this action. Plaintiff has provided no evidence whatsoever that any such account ever existed, nor has he set forth the alleged amount of any funds in this alleged account. Any documentation regarding any wages earned by Plaintiff from 1979 to 1981, if it even still exists, would be very difficult or impossible to locate now, more than 30 years later.

It is clear that any cause of action Plaintiff might have had based on the allegations sent forth in his Complaint arose well more than two years prior to the commencement of the lawsuit. Therefore, Plaintiff's claims are barred by the applicable statute of limitations.

2) **Plaintiff's claims are based on a statute that was not in effect in 1981**

Plaintiff's basis for his belief that a portion of his wages from 1979 through 1981 was withheld and maintained in an escrow account to be distributed to him on his release appears to be S.C. Code Ann. §24-3-40. Section 24-3-40 dictates the disposition of wages of prisoners allowed to work at paid employment. Specifically, §24-3-40(A) as currently written sets forth that the wages are to be paid directly to the Director of the SCDC, who shall make certain deductions from the prisoner's gross wages, including restitution, victim assistance programs, child support, etc. Section 24-3-40(5) as currently written provides that "[t]en percent must be held in an interest bearing escrow account for the benefit of the prisoner." Section 24-3-40 (B), as currently written sets forth how the funds maintained in a prisoner's escrow is to be returned to the prisoner.

The Plaintiff has provided no evidence that this provision, or any similar law, was in effect at the time Plaintiff allegedly earned his wages in 1979 to 1981. Further, the version of §24-3-40 that was enacted in 1994 did not include any provision regarding withholding any amount of an inmate's wages for an escrow account. The 1994 version provided that:

Unless otherwise provided by law, the employer of a prisoner authorized to work at paid employment in the community under Sections 24-3-20 to 24-3-50 or in a prison industry program provided under Article 3 of this chapter shall pay the prisoner's wages directly to the Department of Corrections. The Director of the Department of Corrections shall withhold five percent of the gross wages and promptly place these funds on deposit with the State Treasurer for credit to a special account to support victim assistance programs established pursuant to the 'Victims of Crime Act of 1984, Public Law 98-473, Title II, Chapter XIV, Section 1404'. The director may withhold from the wages costs incident to the prisoner's confinement as the Department of Corrections considers appropriate

and reasonable. These withholdings must be deposited to the maintenance account of the Department of Corrections. The balance of the wages, in the discretion of the director and in proportions determined by the director, may be disbursed to the prisoner, the prisoner's dependents, and the victim of the crime or deposited to the credit of the prisoner. No prisoner who participates in a project designated by the Director of the Bureau of Justice Assistance pursuant to Public Law 90-351 is eligible for unemployment compensation upon termination from the program. (See Exhibit D).³

Therefore, it appears there was not any statutory requirement for SCDC to make such withholding.

Plaintiff has failed to establish that Plaintiff has not provided any evidence that any amount of his wages in 1979 through 1981 were withheld and placed in an escrow account. Further, if Plaintiff had any funds remaining from his work program, it would be contained within a work center account with the SCDC. See Affidavit of Noel Hebert. Plaintiff's records reflect that he does not have any funds in a work center account with the SCDC. See *Id.* In fact, he does not have a work center account with the SCDC, and has not had one since at least 1994. See *Id.* Therefore, Plaintiff has failed to establish that Defendants, or any other employees of the SCDC, withhold or misappropriated any of Plaintiff's wages, and his suit should be dismissed.

3) **Individual Defendants under the Tort Claims Act**

Finally, Defendants have also moved that, should the Court choose not to dismiss the Plaintiff's case outright, the individual Defendants be dismissed from the case pursuant to the provisions of the South Carolina Tort Claims Act. Under S.C. Code Ann §§ 15-78-70 and 15-78-200, all individually named defendants must be dismissed from the suit and the agency substituted in their place for all actions taken by defendants "while acting within the scope of the

³ The version of §24-3-40 enacted in 1996 also did not have any requirement that any portion of a prisoner's wages be withheld in an escrow account. (See Exhibit E). It appears that the first version of §24-3-40 to include a requirement that a portion of a prisoner's wages be withheld in an escrow account was in the version enacted in 1999 (See Exhibit F).

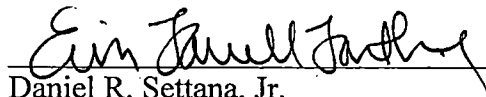
employee's official duty." *Faile v. South Carolina Dept. of Juvenile Justice*, 566 S.E.2d 536 (2002).

In the present case, it is clear that all of the individually named Defendants were officials and employees of the State of South Carolina and the Department of Corrections at the time alleged in the Complaint, they were acting within the scope of their employment, and they were exercising the discretion necessary to carry out their respective duties. Therefore, the proper entity to defend this matter is the South Carolina Department of Corrections. Since SCDC is already one of the named parties to this lawsuit, the individually named Defendants should be dismissed and SCDC be left as the only Defendant to this action.

CONCLUSION

For the foregoing reasons, the Defendants respectfully request that this Court grant their Motion to Dismiss or their Motion for Summary Judgment.

Respectfully submitted,



Daniel R. Settana, Jr.

Erin Farrell Farthing

McKay, Cauthen, Settana & Stuble, P.A.

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(803) 256-4645

Attorneys for Defendants

Columbia, South Carolina
July 31, 2013

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Basil W. Akbar, #065498

Plaintiff,

v.

South Carolina Department of Corrections,
Bill Byers, Martha Roof, Debrah Long,
Lisia Johnson, Ann and John Doe,

Defendant.

IN THE COURT OF COMMON PLEAS

C/A No: 2013-CP-40-0301

**DEFENDANTS' ANSWERS TO
PLAINTIFF'S INTERROGATORIES
AND REQUEST FOR PRODUCTION
OF DOCUMENTS**

TO: BASIL W. AKBAR, #65498, PRO SE PLAINTIFF:

Defendants hereby respond to Plaintiff's Interrogatories and Request for Production of Documents pursuant to Rules 33 and 34 of the South Carolina Rules of Civil Procedure as follows:

1. On July 18, 1979 thru April 8, 1982, the Plaintiff were authorized to participate in Community Work Release Programs by the South Carolina Department of Corrections (SCDC) Director to work at paid employment. If so, produce copy of the then promulgated policies and regulations used to administer the programs.

RESPONSE: Defendants object to this Request because there is an outstanding Motion to Dismiss in this case seeking the dismissal of this case. Defendant further objects to this Request because it is vague and ambiguous as written; it is neither relevant to a claim or defense in this action, nor reasonably calculated to lead to the discovery of admissible evidence; and it is overly broad and therefore unduly burdensome. Defendants further object because Defendants are informed and believe that the Plaintiff can obtain these documents through another source that is more convenient, less burdensome, or less expensive. Specifically, the Defendants are informed and believe that the Plaintiff has access all current, non-restricted SCDC policies at his institution's law library. If Plaintiff requires access to a prior policy, he can request that these policies be made available at his institution's law library.

2. Provide complete copy of any and all SCDC's Financial Accounting Branch Business Office Records Relating to the Plaintiff Basil W. Akbar's [#065498] Work Release

Paid Employment Programs, Archives Records Produced to Micro-Fiche Record, or stored electronically for examination, audit and inspection to include but not limited to:

- a. any and all SCDC's Accountence deductions from gross wages.
- b. authorized percentage(s) of funds held from each pay check.
- c. total amount of wages held in Long Term Saving Interest bearing escrow account #065498.
- d. history of interest drawn on Work Release Escrow Account #065498.
- e. Complete history of status, balance of account, and dates of any withdrawal from account #065498.

RESPONSE: Defendants object to this Request because there is an outstanding Motion to Dismiss in this case seeking the dismissal of this case. Defendant objects to this Request because it is neither relevant to a claim or defense in this action, nor reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to the extent that the information requested by Plaintiff is restricted due to safety concerns. Notwithstanding these objections, there is no such account under Plaintiff's name or SCDC number. Further, any documents regarding Plaintiff's pay from 1979 through 1982 would be very difficult if not impossible to locate as it has been more than thirty years since that time. Therefore, Defendants object to this request as unduly burdensome.

3. Copy of the SCDC's Lee county West Yard Prison Industries Agreement, entered/signed by the Plaintiff September 3, 2008.

RESPONSE: Defendants object to this Request because there is an outstanding Motion to Dismiss in this case seeking the dismissal of this case. Defendant objects to this Request because it is neither relevant to a claim or defense in this action, nor reasonably calculated to lead to the discovery of admissible evidence. This request seeks information that appears to be related to the claims made in the Plaintiff's proposed "Supplemental Complaint." The Court has not yet ruled on this "Supplemental Complaint," and it has not yet been served on any of the new proposed Defendants.

4. Copy of the General Operating Procedures for Lee C.I. West Yard Prison Industries.

RESPONSE: Defendants object to this Request because there is an outstanding Motion to Dismiss in this case seeking the dismissal of this case. Defendant objects to this Request because it is neither relevant to a claim or defense in this action, nor reasonably calculated to lead to the discovery of admissible evidence. This request seeks information that appears to be related to the claims made in the Plaintiff's proposed "Supplemental Complaint." The Court has not yet ruled on this "Supplemental Complaint," and it has not yet been served on any of the new proposed Defendants.

→ 5. Complete Copy of Plaintiff's Lee County [2008] Prison Industries work production and evaluation reports.

RESPONSE: Defendants object to this Request because there is an outstanding Motion to Dismiss in this case seeking the dismissal of this case. Defendant objects to this Request because it is neither relevant to a claim or defense in this action, nor reasonably calculated to lead to the discovery of admissible evidence. This request seeks information that appears to be related to the claims made in the Plaintiff's proposed "Supplemental Complaint." The Court has not yet ruled on this "Supplemental Complaint," and it has not yet been served on any of the new proposed Defendants.

→ 6. Complete copy of any and all Incident Reports, Investigation Reports, and EWC write-up, regarding the Plaintiff's termination from Lee County Prison Industries Rehabilitation Work Program.

RESPONSE: Defendants object to this Request because there is an outstanding Motion to Dismiss in this case seeking the dismissal of this case. Defendant objects to this request because it is neither relevant to a claim or defense in this action, nor reasonably calculated to lead to the discovery of admissible evidence. This request seeks information that appears to be related to the claims made in the Plaintiff's proposed "Supplemental Complaint." The Court has not yet ruled on this "Supplemental Complaint," and it has not yet been served on any of the new proposed Defendants.

7. Names and SCDC number of the six (6) West Yard Prison Industries Inmate Workers terminated on or about March 14, 2009, upon order of Larry Clutter that included Plaintiff.

RESPONSE: Defendants object to this Interrogatory because there is an outstanding Motion to Dismiss in this case seeking the dismissal of this case. Defendant objects to this interrogatory because it is neither relevant to a claim or defense in this action, nor reasonably calculated to lead to the discovery of admissible evidence. This Interrogatory seeks information that appears to be related to the claims made in the Plaintiff's proposed "Supplemental Complaint." The Court has not yet ruled on this "Supplemental Complaint," and it has not yet been served on any of the new proposed Defendants. Defendants further object to this interrogatory to the extent that it implicates privacy rights of other inmates.

8. Complete copy of any and all evidence relied upon that the Officials believes constituted Plaintiff's termination, and.

EE Co.

RESPONSE: Defendants object to this Request because there is an outstanding Motion to Dismiss in this case seeking the dismissal of this case. Defendant objects to this Request because it is neither relevant to a claim or defense in this action, nor reasonably calculated to lead to the discovery of admissible evidence. This request seeks information that appears to be related to the claims made in the Plaintiff's proposed "Supplemental Complaint." The Court has not yet ruled on this "Supplemental Complaint," and it has not yet been served on any of the new proposed Defendants.

9. Complete copy of any and all evidence relied upon that include witness statements and/or Reports in support of termination.

RESPONSE: Defendants object to this Request because there is an outstanding Motion to Dismiss in this case seeking the dismissal of this case. Defendant objects to this Request because it is neither relevant to a claim or defense in this action, nor reasonably calculated to lead to the discovery of admissible evidence. This request seeks information that appears to be related to the claims made in the Plaintiff's proposed "Supplemental Complaint." The Court has not yet ruled on this "Supplemental Complaint," and it has not yet been served on any of the new proposed Defendants.

10. Current mailing address of pro se Defendants, Leon Visintainer former SCDC's Prison Industries Operation Manager; Larry Clutter former Lee C.I. Prison Industries Supervisor; and former Lee C.I. Warden Anthony Padula.

RESPONSE: Defendants object to this Interrogatory because there is an outstanding Motion to Dismiss in this case seeking the dismissal of this case. Defendant also objects to this Interrogatory because it is neither relevant to a claim or defense in this action, nor reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to the extent that the information requested by Plaintiff is restricted, as its production would jeopardize the safety of these individuals and their families. Additionally, these individuals are not currently Defendants in this action, as the Court has not yet ruled on Plaintiff's Motion to File a Supplemental Complaint.

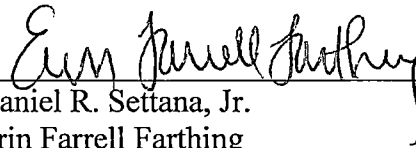
11. Has SCDC allowed inmates while incarcerated to make withdrawal from their Long Term Savings Account? If so, when, and what circumstances.

RESPONSE: Defendants object to this Interrogatory because there is an outstanding Motion to Dismiss in this case seeking the dismissal of this case. Defendant further objects to this Interrogatory because it is vague and ambiguous as written; it is neither relevant to a claim or defense in this action, nor reasonably calculated to lead to the discovery of admissible evidence; and it is overly broad and therefore unduly burdensome.

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12. Provide copy of criteria, policy, related directive, and application for withdrawal from Long Term Savings by incarcerated inmates.

RESPONSE: Defendants object to this Request because there is an outstanding Motion to Dismiss in this case seeking the dismissal of this case. Defendants further object to this request to the extent it seeks information or documents not in the possession, custody or control of Defendants. Defendants further object because Defendants are informed and believe that the Plaintiff can obtain these documents through another source that is more convenient, less burdensome, or less expensive. Specifically, the Defendants are informed and believe that the Plaintiff has access all current, non-restricted SCDC policies at his institution's law library.



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Attorneys for Defendants

Columbia, South Carolina
July 22, 2013

IN THE COURT OF COMMON PLEAS

C/A No: 2013-CP-40-0301

Plaintiff,

v.

**DEFENDANTS' ANSWERS TO
PLAINTIFF'S SECOND
INTERROGATORIES AND
REQUEST FOR PRODUCTION
OF DOCUMENTS**

Defendant.

Defendants hereby respond to Plaintiff's Interrogatories and Request for Production of Documents pursuant to Rules 33 and 34 of the South Carolina Rules of Civil Procedure as follows:

RESPONSE: Defendants object to this Interrogatory because there is an outstanding Motion to Dismiss in this case seeking the dismissal of this case. Defendant also objects to this Interrogatory because it is neither relevant to a claim or defense in this action, nor reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to the extent that the information requested by Plaintiff is restricted, as its production would jeopardize the safety of these individuals and their families.

RESPONSE: Defendants object to this Request because there is an outstanding Motion to Dismiss in this case seeking the dismissal of this case. Defendants further object because Defendants are informed and believe that the

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Plaintiff can obtain these documents through another source that is more convenient, less burdensome, or less expensive. Specifically, the Defendants are informed and believe that the Plaintiff has access all current, non-restricted SCDC policies at his institution's law library. Further, Defendants are unaware of any such policy for the dates of 1979 through 1985.

3. Complete copy of duty and description of Inmate Grievance clerk; and Administrative Grievance Coordinator.

RESPONSE: Defendants object to this Request because there is an outstanding Motion to Dismiss in this case seeking the dismissal of this case. Defendant further objects to this request because it is vague and ambiguous as written, and Defendants are unable to determine what Plaintiff is seeking. Defendants further object to this request as it is neither relevant to a claim or defense in this action, nor reasonably calculated to lead to the discovery of admissible evidence; and it is overly broad and therefore unduly burdensome

4. Complete Copy of SCDC's Grievance Policy #GA-01.12.

RESPONSE: Defendants object to this Request because there is an outstanding Motion to Dismiss in this case seeking the dismissal of this case. Defendants further object because Defendants are informed and believe that the Plaintiff can obtain these documents through another source that is more convenient, less burdensome, or less expensive. Specifically, the Defendants are informed and believe that the Plaintiff has access all current, non-restricted SCDC policies at his institution's law library.

5. Is there a written SCDC Policy that requires procedural time limit/allotted time to exhaust preliminary informal resolution, if so, produce complete copy.

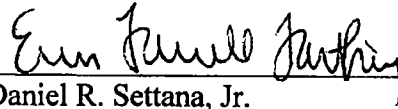
RESPONSE: Defendants object to this Request because there is an outstanding Motion to Dismiss in this case seeking the dismissal of this case. Notwithstanding this objection, see the SCDC's Grievance Policy, #GA-01.12, and see Defendants' Response to Plaintiff's Request number 4 above.

6. State concisely with specificity what event, explanation, and justification marks the time, or place of alleged incident relied on that the defendants believe justify agency posture; and produce documented evidence.

RESPONSE: Defendants object to this Request because there is an outstanding Motion to Dismiss in this case seeking the dismissal of this case.

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Defendant further objects to this request because it is vague and ambiguous as written, and Defendants are unable to determine what Plaintiff is seeking.



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Attorneys for Defendants

Columbia, South Carolina
July 22, 2013

RECEIVED

CERTIFICATE OF COUNSEL;
AND AMENDMENT THERE TO

AUG 05 2015

SC Court of Appeals

The Appellant, Pro Se, hereby certify that the Record on Appeal contains all material proposed to be included by Parties under Rule 210 (g), and 267 SCACR.

Further assert that Appellant's Designation contain no matter which is irrelevant to the Appeal. On July 28, 2015, the Appellant Received this Honorable Court's Order filed July 24, 2015, to serve and file another Supplemental Record on Appeal that includes the omitted designated matters.

Date: July 30, 2015



Basil W. Akbar, 065498, Pro Se
Lee County Correction Institution
990 Wisbeck Hwy., F-6B, 2213
Bishopville, S.C. 29010

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

AUG 05 2015

APPEAL FROM RICHLAND COUNTY
G. Thomas Cooper, Jr., Circuit Court Judge
SC Court of Appeals

APPELLATE CASE NO. 2013-002306

Basil W. Akbar

Appellant,

v.

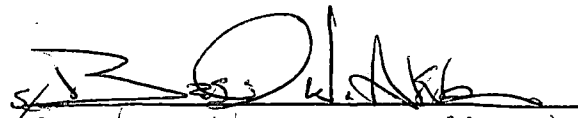
South Carolina Department of Correction, et al.

Respondent.

CERTIFICATE OF SERVICE

I, Basil W. Akbar, Pro Se, hereby certify that Respondent's Counsel of Record, was served copy of Appellant's Supplemental Record on Appeal, items 1, 2, 3, 4, 5, 11, and 12, with attachments; and ANNEXED Certification of Counsel, by the United States Postal Service, postage prepaid at: Daniel R. Settana, Jr., Post Office Drawer 7217, Columbia, S.C. 29202.

Date: July 30, 2015


Basil W. Akbar, 063498 (Pro Se)
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