

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

Dennis Temple, #274802,)
Plaintiff,)

vs.)

South Carolina Department)
of Corrections,)

Defendant.)

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

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CLERK OF COURT
GREENVILLE, S.C.
MAY 28 4 11 09 PM
ORDER

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2015-CP-23-0321 JUN 03 2016

SC Court of Appeals

TO: DENNIS TEMPLE, PLAINTIFF, PRO SE:

This matter came before me upon the Plaintiff's Motion to Compel Discovery and the Defendant's Motion for Summary Judgment. Plaintiff is an inmate incarcerated within the South Carolina Department of Corrections. Plaintiff alleges that as a result of the Defendant's gross negligence, he fell on a painted line on the sidewalk on February 13, 2015. Plaintiff further alleges by way of his Motion to Compel, that the Defendant has failed to respond to his Request for Production. The Defendant has submitted a copy of its Response to Plaintiff's Request for Production as well as the Affidavit of Officer William Butler in support of Motion for Summary Judgment. Plaintiff submitted an affidavit from inmate Keith Albert Theadgill and an unsigned affidavit from inmate Bobby Hembree.

It appears that Plaintiff served the Defendant with a Request for Production and that the Defendant filed a timely response dated September 2, 2015. The Defendant's attorney represented that there are no Incident Reports for Plaintiff's fall and that Plaintiff's medical records from the date of the incident forward were provided to the Plaintiff along with Defendant's Response to Plaintiff's Request for Production. The Defendants objected to

providing the names and assigned dorms of inmates responsible for painting lines on the sidewalks at Perry Correctional Institution on the grounds that this information is not relevant and is outside of discovery, as well as creating a security issue by revealing the names and dorms of inmates. The Defendants also objected to the production of documents containing the names of staff members, mental health personnel and SCDC officers at Perry. The Defendant asserts that the information is not relevant and is outside the course of discovery, except that the medical records provided contain the names of staff members who treated the Plaintiff following the incident. Finally, the Defendants objected to the production of information relating to Keith Albert Theadgill and an alleged fall on July 20, 2014 on the ground that this information concerns another inmate and would raise privacy and security concerns. In addition, the alleged fall on July 20, 2014 is not relevant to the issues in this case. After reviewing the Defendant's discovery responses, I find that they are responsive to Plaintiff's request and that Plaintiff is not entitled to any additional information.

In support of their Motion for Summary Judgment, the Defendants have submitted the affidavit of Officer William Butler, whom Plaintiff states that he first advised of his fall the day after. Officer Butler states that he does not recall Plaintiff complaining of a fall, but would have made arrangements for him to be seen by medical staff if he had complained to him (Butler Aff. ¶ 3). Perry Correctional Institutional has sidewalks where inmates walk with painted lines (Butler Aff. ¶ 4). The purpose of the lines is to designate an area for inmates to walk (Butler Aff. ¶ 4). Inmates are required to walk on the right side of the yellow line and should not be walking on the line (Butler Aff. ¶ 4). There is ample room for inmates to walk without walking on the line (Butler Aff. ¶ 4). The lines do not pose a hazard for falls, but there is no reason for an

inmate to be walking on the lines (Butler Aff. ¶ 5).

At the hearing, Plaintiff gave no explanation as to why he was walking on the painted line, nor did he dispute that he was supposed to be walking on the right side of the line. The South Carolina Tort Claims Act provides a gross negligence standard for cases involving inmates under state law. SC Code Ann. § 15-78-60 (25). Gross negligence has been held to be “the failure to exercise slight care.” Ethridge v Richland School District 1, 499 S.E. 2d 238, 242 (S.C. App. 1998).

While Plaintiff alleges that there is gross negligence here, he has presented no evidence of it. Instead, he cites SC Code Ann. § 24-1-130 which states that the SCDC Director is responsible “for the proper care, treatment, feeding, clothing and management of the prisoners confined therein.” This code section does not make SCDC or its Director the insurer of an inmate’s safety. Plaintiff has not shown that the Defendant violated this statute or that the conditions in February 2015 at Perry Correctional Institution were hazardous. As Plaintiff cannot show under any circumstances that the Defendant was grossly negligent, the Defendant is entitled to summary judgment.

Now therefore, it is ordered adjudged and decreed that Plaintiff’s Motion to Compel is denied and Defendant’s Motion for Summary Judgment is granted.

IT IS SO ORDERED.



THE HONORABLE PAUL M. BURCH
PRESIDING JUDGE

Greenville, South Carolina

February 24th, 2016