

IN THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Richland County
G. Thomas Cooper, Jr., Circuit Court Judge

Case No. 2013-002306

SC Court of Appeals

JUL 14 2016

RECEIVED

Basil W. Akbar,

Appellant,

v.

South Carolina Department of Corrections, et al.

Respondents.

PETITION FOR REHEARING; AND REHEARING EN BANC

On July 8, 2016, Basil W. Akbar, Appellant Pro Se, recieved this Honorable Court's Unpublished Opinion No. 2016-UP-348, filed July 6, 2016, Affirmed Circuit Court Decision.

Appellant respectfully petition for Rehearing pursuant to Rule 224, SCCR, Court overlooked or misapprehended in Appellant's argument in rushing to conclusion:

1. According to Agency grievance policy GA-01.12, Inmate Grievance System, inmates must make an effort to informally resolve a grievance, therefore the following actions ensued:

- * Approximately October 2008, Appellant sought status of said account, no reply.
- * December 2008, a second request were filed, still no reply.
- * Numerous phone calls from family member ensued . . . June 18, 2009, erroneous reply recieved.
- * July 2009, Appellant filed corrective request, by certified mail, no reply, further delay.
- * Appellant filed numerous grievances, Lee CI #2323-09; #0813-10; #1270-10; and #1598-10, return unprocessed except for #1598-10.
- * Appellant first put on bnotice April 28, 2010, work release account closed.
- * Final Agency decision received December 2010.
- * December 31, 2010, ALC appeal timely filed, and dismissed April 28, 2011.
- * May 18, 2011, Notice of verified claim [No. 75046] filed.

2. The Circuit Court erred in applying the two-year statute of limitation, because the predicate fact could not, and was not established, or operative fact for legal claim had not been triggered, until April 28, 2010. See, Appellant's attached affidavit.

3. The Doctrine of Exhaustion of Administrative Remedies requires a person seeking relief from the action of an administrative agency to pursue all available remedies before seeking relief from the Courts, see, Pullman Co. v Pub. Serv. Comm'n., 234 SC 365, 108 SE 2d 571.

4. The lower court's decision was not based on evidence in the record. Evidence indicate the Department's decision was not based on facts; clearly erroneous, arbitrary, an prejudicial. Pursuant to Department's "Definition of Policy Employment Account ADM-15.12", an inmate may request at any time that his account be made transparent and/or request investigation of account for mistakes.

5. The Court may not substitute its judgement for the judgement of the Agency as to the weight of the evidence on questions of fact. The court may affirm the decision of the Agency or remand the case for further proceedings. The Court may reverse or modify the decision if substantial rights of the Appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

- (a) in violation of Constitutional or Statutory provisions;
- (b) in excess of the Statutory authority of the Agency;
- (c) Made upon unlawful procedure;
- (d) affected by other error of law;
- (e) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record;
- (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

SC Code Ann Sec 1-23-38 (A)(6)(2005)

6. The Lower Court further oversights that statute of limitation in instant case start to run when Appellant "accues", because the injury took place over a period of time [continued wrong], and statute should not run until that period end, and predicate arises. Page v United States, 729 F2d 818, 821; and

7. Where Testimony is conflicting upon the application of the statute of limitation, the question becomes an issue of fact for the jury. Brown v. Finger, 240 SC 102, 124 SE 2d 781. Whether a claimant knew or should have known he had a cause of action is a question for the jury. Johnston v. Bowen, 313 SC 37, 550 SE 2d 589; and

8. That at all time relevant the Appellant was continuously serving conviction in Department's custody. See, Sanders v. Mac Dougal, 135 SE 2d 836 (1964); Wilson v. Flaherty, 689 F 3d 332 (4th Cir. 2012); Jones v. Cunningham, 317 US 236, 83 S Ct 373; and

9. Equitable tolling, should have been invoked in Appellant's matter, where such tolling is necessary to prevent unfairness to a diligent plaintiff, and where statute of limitations deadline is typically available when claimant was prevented in some extraordinary way from exercising his rights when relevant facts present sufficient exceptional circumstances that warrant application of the doctrine.

Equitable tolling has been deemed available where:

- * Extraordinary circumstances prevented the plaintiff from filing despite his diligence.
- * the plaintiff actively pursued his judicial remedies by filing a defective pleading during the statutory or the claimant has been induced or tricked by the defendant's misconduct into allowing the filing deadline to pass.
- * the plaintiff despite all due diligence is unable to obtain vital information bearing on the existence of his claim.

CONCLUSION

The Appellant's prayer is that the Honorable Court review his pleading with practical eye, and remand for further review on equitable tolling doctrine that statute of limitation will not bar a claim if the plaintiff, despite diligent efforts, did not discover the injury until after limitation period had expired; and any delay bring complaint is due to Respondent's misrepresentation, based upon the whole record; Appellant's Affidavit; and Statute of Limitation tolled until time misrepresentation was discovered.

Date: July 12, 2016


S/ Basil W. Akbar, #065498, Pro Se
Lee County Institution

CERTIFICATE OF SERVICE

I, Basil W. Akbar, hereby certify that copy of, Petition for Rehearing, and Rehearing En Banc; Appellant's Affidavit in Support, and Unpublished Opinion No. 2016-UP-348, was served on Respondent by United States Postal Service, postage prepaid at: Danial R. Settana, PO Drawer 7212, Columbia, SC 29202. Attorney for Respondents; add Exhibits *1-5.

Date: July 12, 2016


Basil W. Akbar, #065498, Pro Se
Lee County Institution
990 Wisacky Highway, F6B 2213
Bishopville, SC 29010

IN THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM RICHLAND COUNTY
COURT OF COMMON PLEAS

G. THOMAS COOPER, Jr., CIRCUIT COURT JUDGE

APPELLATE CASE NO. 2013-002306

RECEIVED

JUL 14 2016

SC Court of Appeals

BASIL W. AKBAR.....APPELLANT

V.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS, et al.....RESPONDENTS

APPELLANT'S AFFIDAVIT IN SUPPORT

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

APPELLANT'S AFFIDAVIT
IN SUPPORT

I, Basil W. Akbar, Appellant solemnly swear that the account of Claims; the authentication of related documents; and information given by me in this Affidavit is true and correct, and I understand that I will be subject to Civil and /or Criminal penalties if I knowingly furnish false information:

I, Basil W. Akbar, #065498 the undersigned is currently a resident at Lee County Correction Institution, and the Appellant (Akbar).

2. Between July 1979 thru April 1981, assigned facilities, was Employment Work Program; and Campell Work Release Program; Employed at Owens Electric & Steel Co.; received weekly pay check in hand...and personally delivered to Center's Administrator...weekly deductions for Room & Board; and Long Term Escrow saving Account.

3 Akbar were parole [1981], and advised funds in Escrow Savings Account would be release upon completing five (5) years on conditional parole, or pardon, however, parole were revoked 1985 prior to, and believed information to be routine and truthful.

4. Approximately October 2008, Akbar sought status of said account at SCDC's Financial Business Office [Martha Roof], no reply...December 2008 a second Request were filed to same...after furthered delay, numerous phone calls from family member...June 18, 2009 [Debrah Long] SCDC's Financial Branch related false information. On July 2009, a third (Corrective Request were filed), pursuant to S.C. Code. Ann. §30-4-10 et seq., served upon [M. Roof & D. Long] by Certified Mail Return Receipt July 23, 2009...no reply, furthered delay. See Exhibits coinciding dates.

5. Akbar filed numerous grievances as results, (1). Lee C.I. # 2323-9; (2). Lee C.I. #0813-10; (3). Lee C.I. #1270-10; and (4). Lee C.I. #1598-10, grievances return unprocessed except for the fourth grievance with attached three grievances. See Exhibits.

6. Akbar first learn approximately April 28, 2010, that Work Release Escrow Account was closed and archived; account was never made transparent, or funds release. See Exhibit, Request Disposition from Ms. Melton Lee C.I., coincide date.

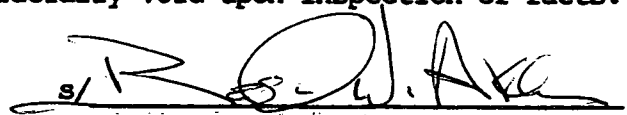
7. At all times relevant Akbar were in legal custody of SCDC, on parole in the State of South Carolina, City of Columbia; and personally reporting to Agent Officer monthly.

8. Pursuant to the SCDC's Definition of Policy Employee Account ADM-15.12:

Sec. 13.1 "Check requested for delivery by institution to inmate prior to release." Sec. 13.1.4 "No release checks will be automatically cut by Financial Branch Personnel for any institution..." Sec. 15, "Account Statement." Sec. 17.4, "Reporting of mistake in account, if an inmate thinks a mistake has been made...Inmate Request To Staff Member...no later than 75 days." Sec. 17.4.3, "SCDC investigation of Account mistake, the Institutional Cooper Trust Fund designee will give the inmate the result...within ten working days...investigation in continuing 10 calendar days...either correct the mistake or explain...and record the necessary adjustment to account."

9. See, The Respondents' misleading Disposition to Request dated June 18, 2009 asserted, "...according to our records you receive a Cooper deposit from...work center March 30, 1994." In fact Akbar received and reimbursement for lost property [GA. Liebre C.I. #030-94], approximate \$8.00; see, Exhibits...Dept. letters dated, April 20, 1994.

10. Akbar submits he exercised due diligence, but hindered from promptly grieving mistake; account not made transparent on Request; funds not made accessible; and denied fiduciary duty of care owed, howeverm the Respondents are attempting to dictate when Akbar discovered said tort, despite the facts refuting the Respondents' view that is facially void upon Inspection of facts.



Basil W. Akbar, 065498, Pro se F6-B

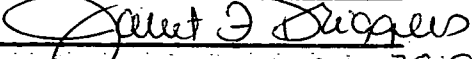
Lee Correction Institution

990 Wisacky Highway

Bishopville, S.C. 29010

Sworn To Before Me

This 3rd Day of NOVEMBER, 2015

Notary: 

My Commission Expires: 11-05-2019

SECOND URGENT REQUEST

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
REQUEST TO STAFF MEMBER

EXHIBIT #1
RECEIVED
JUL 14 2016
SC Court of Appeals

TO: NAME: <u>MS. ROOF, FINANCIAL</u>	TITLE: <u>PH 3:54 Business Office</u>	DATE: <u>December 1, 2008</u>
INMATE'S NAME: <u>Basil W. Akbar</u>	SCDC #: <u>065498</u>	
INSTITUTION: <u>Lee County</u>	LIVING QUARTERS: <u>Richard C-119</u>	

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 verbatim: 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 cash deposit for Liveoak Work Center on 3/30/94

DATE: <u>6/18/09</u>	SIGNATURE: <u>[Signature]</u>
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EXHIBIT #2

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

TO: NAME: <u>MS. Long / MS. Roof, Financial Accounting Dept.</u>	TITLE:	DATE: <u>July 7, 2009</u>
INMATE'S NAME: <u>Basil W. Akbar</u>	SCDC #: <u>065498</u>	
INSTITUTION: <u>Lee County</u>	LIVING QUARTERS: <u>Richland C419</u>	

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 3/30/94."

To the contrary, in 1994 I was located at Lieber List, the only SCDC deposit should have been a Reimbursement for lost property [GA # 65-030-94], MS. SUZANNE Reich, Chief Accounting Branch. On 3/15/94 (\$2223) & 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:

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

COMPLETE THIS SECTION ON DELIVERY

A. Signature: [Signature]B. Received by (Printed Name): Amos AckermanC. Date of Delivery: 7-23-09D. 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

RECEIVED

JUL 14 2016

SC Court of Appeals

DATE:

SIG:

**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

MAR 19 2010

Office Use Only
Grievance No. LECT 0813-10
Code: General any
Policy _____
Disc. Hear. _____
Class. _____
Date Received 3/22/10
IGC Initials JS

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 Saving 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 [3-30-94, REIMBURSEMENT FOR lost PROPERTY] UNRELATED to matter of CONCERN, of which I have since made a corrective Reply to their deformed mis:information. 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

Basil W. Akbar 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.

R. Johnson 4/21/10
IGC Signature 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.

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: Richard C-119
WORK ASSIGNMENT: Horticulture

Office Use Only
Grievance No. LEE CI 0813-10
Code: General my
Policy _____
Disc. Hear. _____
Class. _____
Date Received 5/5/10
IGC Initials RG

MAY 04 2010

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 4/29/2010
Grievant Signature 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.

L. Johnson 3/26/10
IGC Signature Date

Grievant Signature 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.

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

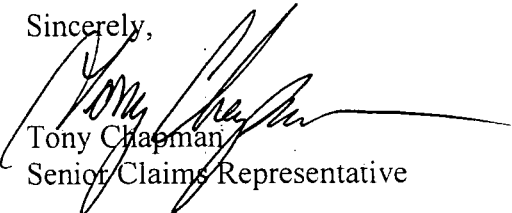
Basil Akbar
990 Wisacky Highway
Bishopville, SC 29010

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:

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

Basil W. Akbar, Appellant,

v.

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

Appellate Case No. 2013-002306

Appeal From Richland County
G. Thomas Cooper, Jr., Circuit Court Judge

Unpublished Opinion No. 2016-UP-348
Submitted February 1, 2016 – Filed July 6, 2016

AFFIRMED

Basil W. Akbar, pro se.

Daniel R. Settana, Jr. and Brandon Paul Jones, both of
McKay Cauthen Settana & Stubley, PA, of Columbia, for
Respondents.

PER CURIAM: Basil Akbar, an inmate serving a life sentence, appeals the circuit court's order granting Respondents' motion to dismiss and motion for summary judgment. On appeal, Akbar argues the circuit court erred in (1) denying

his motion to compel discovery and his request for damages, and granting Respondents' motion for summary judgment and motion to dismiss; (2) not finding Respondents unlawfully deprived him of personal property; (3) not finding Respondents' refusal to process grievances constituted default and reprisal; (4) not finding Respondents' conduct of closing his account and fraudulently appropriating his work-release escrow savings account violated his constitutional rights; and (5) not finding Respondents' conduct hindered Akbar's "ability to grieve Civil Rights and Civil liberty claims." We affirm.

Summary judgment was proper because Akbar's claims were barred by the two-year statute of limitations in the Torts Claims Act. *See Young v. S.C. Dep't of Corr.*, 333 S.C. 714, 717, 511 S.E.2d 413, 415 (Ct. App. 1999) ("Summary judgment is appropriate when it is clear there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law."); *id.* at 717-18, 511 S.E.2d at 415 ("In determining whether any triable issue of fact exists, as will preclude summary judgment, the evidence and all inferences which can be reasonably drawn therefrom must be viewed in the light most favorable to the nonmoving party."); S.C. Code Ann. § 15-78-110 (2005) (setting forth a two-year statute of limitations for claims arising under the Tort Claims Act).¹ Regarding any alleged misappropriation of the 1981 account, Akbar waited until January 2013 to file his complaint. Viewed in the light most favorable to Akbar, the record shows he was aware the 1981 account did not exist more than two years prior to filing the complaint. Akbar admitted in his complaint that he first became aware on February 9, 2009, that the Department of Corrections (the Department) did not have any records of the 1981 account. Additionally, the record contains a document from the Department dated April 28, 2010, informing Akbar it did not have any record of that account. Notwithstanding that, Akbar waited until January

¹ We find the circuit court properly applied the two-year statute of limitations because Akbar did not submit evidence showing he filed a verified claim. *See Flateau v. Harrelson*, 355 S.C. 197, 207, 584 S.E.2d 413, 418 (Ct. App. 2003) (stating the claimant must file a verified claim pursuant to section 15-78-80 of the South Carolina Code (2005 & Supp. 2015) for the three-year statute of limitations to apply); *Pollard v. Cty. of Florence*, 314 S.C. 397, 400, 444 S.E.2d 534, 535 (Ct. App. 1994) ("[T]he 'verified claim' procedure must be strictly complied with in order to trigger the three-year limitations period."); *Flateau*, 355 S.C. at 208, 584 S.E.2d at 418 (finding the two-year statute of limitations applied when the record did not contain evidence showing the claimant filed a verified claim).

16, 2013, to file his complaint. Thus, viewed in the light most favorable to Akbar, the circuit court properly determined Akbar's claims related to the alleged misappropriation of his 1981 account were barred by the two-year statute of limitations.

Additionally, any claims arising from Respondents' alleged failure to timely respond to Akbar's requests or provide him information about the account were barred by the two-year statute of limitations. Akbar filed Step 1 grievance forms on August 18, 2009; March 19, 2010; May 4, 2010; and June 16, 2010; alleging the Department's employees were not timely responding to his requests and asserting the Department and its employees were committing a tort by refusing to provide information about the account. Thus, viewed in the light most favorable to Akbar, Akbar was aware of the facts giving rise to his allegations on August 18, 2009; March 19, 2010; May 4, 2010; and June 16, 2010; yet he waited until January 16, 2013, to file his complaint. Accordingly, any claims related to Respondents' alleged failure to timely respond to Akbar's requests or provide him information about the account were barred by the two-year statute of limitations.

Because the circuit court properly granted summary judgment on the basis that Akbar's claims were barred by the statute of limitations, it did not err in denying his motion to compel discovery on the ground the motion was moot. *See Young*, 333 S.C. at 718, 511 S.E.2d at 415 ("[W]hen plain, palpable, and indisputable facts exist on which reasonable minds cannot differ, summary judgment should be granted.").²

AFFIRMED.³

HUFF, KONDUROS, and GEATHERS, JJ., concur.

² Because our finding that the circuit court properly granted summary judgment based on the two-year statute of limitations is dispositive, we do not consider Akbar's remaining arguments. *See Futch v. McAllister Towing of Georgetown, Inc.*, 335 S.C. 598, 613, 518 S.E.2d 591, 598 (1999) (providing an appellate court need not address remaining issues when determination of a prior issue is dispositive).

³ We decide this case without oral argument pursuant to Rule 215, SCACR.