

STATE OF SOUTH CAROLINA)
)
 COUNTY OF HORRY)
)
 Terrance J. McLeod,)
)
 Plaintiff,)
)
 vs.)
)
 Jarius Orel English-McMillan,)
 Roland Shelley, Roland G.)
 Shelley, II, Scott C. Shelley)
 and Coastal Carolina University,)
)
 Defendants.)

IN THE COURT OF COMMON PLEAS
 FIFTEENTH JUDICIAL CIRCUIT
 C/A NO. 2016-CP-26-01048

**ORDER OF DISMISSAL
 AS TO DEFENDANT
 COASTAL CAROLINA UNIVERSITY**

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 SC Court of Appeals

HORRY COUNTY
 2016 JUL 13 PM 3:13
 MELANIE ROBBINS-WARD
 CLERK OF COURT

THIS MATTER CAME BEFORE the Court on June 14, 2016 pursuant to the Defendant Coastal Carolina University's Notice of Motion and Motion to Dismiss. Coastal Carolina University was represented by Lisa A. Thomas, Esquire, of the law firm of Thompson & Henry, P.A. The Plaintiff was represented by John D. Clark, Esquire, of the Clark Law Firm, LLC.

Coastal Carolina University argued that the Complaint, on its face, failed to state a cause of action against Coastal Carolina University in that the party where Plaintiff was injured in a fight took place off-campus, was not part of a campus function, and, there were no allegations that employees or agents of Coastal Carolina University were involved. The assault clearly appears to be attributable to the acts of a third-party, co-Defendant Jarius Orel English-McMillan. Defendant Coastal Carolina University contends it is entitled to dismissal as to all causes of action specifically, assault and battery, intentional infliction of emotional distress and gross negligence.

Attorney for the Plaintiff argued that it was too early in the process and that gross negligence had been alleged as to the University. Counsel for Coastal Carolina University

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countered that the Plaintiff has failed to show any duty on the part of the University as to a student's activities outside of class, off-campus, and on their own time. No such duty was alleged in the four corners of the Complaint.

As to the Court's finding of fact, I find:

- 1) That the location where this altercation occurred was off-campus and on private property;
- 2) That this was not a function coordinated by or sanctioned by the Defendant Coastal Carolina University;
- 3) That there are no allegations that any employees or agents of the Defendant Coastal Carolina University were involved in the facilitation of this function;
- 4) That Plaintiff failed to articulate any duty owed to the Plaintiff by Defendant Coastal Carolina University or has alleged any breach of duty which proximately caused damages to the Plaintiff.

Based on the Complaint presented and arguments of counsel, it is hereby

ORDERED that Defendant Coastal Carolina University is hereby dismissed with prejudice from the above-captioned matter from the above-captioned matter pursuant to Rules 12(b)(6) of the South Carolina Rules of Civil Procedure, and it is

SO ORDERED.



Benjamin H. Culbertson
Judge for the Fifteenth Judicial Circuit

July 8, 2016
Georgetown, South Carolina