

RECEIVED

NOV 08 2016

SC Court of Appeals

STATE OF SOUTH CAROLINA )

COUNTY OF HORRY )

Terrance J. McLeod, )

Plaintiff, )

-v.- )

Jarius Orel English-McMillan, Roland )  
Shelley, Roland G. Shelley, II, Scott C. )  
Shelley and Coastal Carolina University, )

Defendants. )

IN THE COURT OF COMMON PLEAS  
FIFTEEN JUDICIAL CIRCUIT  
2016-CP-26-1048

AMENDED-COMPLAINT  
(Jury Trial Demanded)  
(Assault and Battery)  
(Intentional Infliction of Emotional Distress)  
(Gross Negligence)

2016 FEB 26 PM 2:03  
CLERK OF COURT

The Plaintiff, complaining of the Defendants above named, would respectfully show unto this Honorable Court that:

1. Plaintiff is a citizen and resident of the County of Berkeley, State of South Carolina.
2. The Defendant Jarius Orel English-McMillan is a citizen and a resident of the State of Florida, and at the time of the herein occurrence, was a college student at Coastal Carolina University in Conway, SC.
3. The Defendants Roland Shelley, Roland G. Shelley, II and Scott C. Shelley are citizens and residents of the County of Charleston, State of South Carolina, and at the time of the herein occurrence, were the owners of the residence located at 1501 Pace Circle, Conway, South Carolina, said residence being known by the students of Coastal Carolina University as the "Goodyear House."
4. The Defendant Coastal Carolina University is a South Carolina State supported university in the County of Horry, State of South Carolina, and at all times referenced herein,

Plaintiff Terrance J. McLeod and Defendant Jarius Orel English-McMillan were students at Coastal Carolina University.

5. That prior to February 16, 2014, the occupants of the "Goodyear House" held parties where alcohol was being consumed and on many occasions violence involving students of Coastal Carolina University occurred and law enforcement had to be called to keep the peace.

6. That Defendants knew or should have known about the violence that had occurred at the parties held at the "Goodyear House" involving Coastal Carolina University students prior to February 16, 2014.

**FIRST CAUSE OF ACTION**  
**(Assault and Battery)**

7. Plaintiff realleges the allegations of the above paragraphs, and incorporates the same herein and by reference as if fully repeated verbatim.

8. On or about February 16, 2014 at approximately 1:34 a.m., a party was being held at the "Goodyear House" and alcohol was being consumed.

9. At approximately 1:34 a.m., Plaintiff was attending the aforementioned party at the "Goodyear House" and was violently attacked by Defendant Jarius Orel English-McMillan and struck in the face with brass knuckles.

10. After being attacked, Plaintiff was left lying on driveway leading to the house, profusely bleeding from his mouth as Defendant Jarius Orel English-McMillan and several others fled the scene.

11. As a result of being struck with brass knuckles in the face by Defendant Jarius Orel English-McMillan, Plaintiff suffered great physical harm and injury, including great emotional distress and psychological injury, all of which has and will cause him to incur a great sum of medical expenses, and to miss time from work and to lose wages and earnings.

**SECOND CAUSE OF ACTION**  
**(Intentional Infliction of Emotional Distress)**

12. Plaintiff realleges the allegations of the above paragraphs, and incorporates the same herein and by reference as if fully repeated verbatim.

13. The Plaintiff alleges he has suffered great emotional distress from the outrageous conduct by the Defendant Jarius Orel English-McMillan, in which Defendant Jarius Orel English-McMillan:

- a. Intentionally or recklessly inflicted harm that was certain to result in emotional distress;
- b. Behaved in a manner that was so extreme and outrageous in a nature that it exceeded all possible bounds of decency and must be regarded as atrocious and utterly intolerable in a civilized community;
- c. Caused the Plaintiff to suffer from severe emotional distress; and
- d. The emotional distress suffered by the Plaintiff was severe so that no reasonable man could be expected to endure it.

All of which resulted in the Plaintiff suffering emotional and psychological depression as well as other mental disabilities, thus resulting in costly therapeutic attention.

**THIRD CAUSE OF ACTION**  
**(Gross Negligence)**

14. Plaintiff realleges the allegations of the above paragraphs, and incorporates the same herein and by reference as if fully repeated verbatim.

15. Plaintiff alleges that the Defendants Roland Shelley, Roland G. Shelley, II, Scott C. Shelley and Coastal Carolina University (herein after referenced as "Defendants") were malicious, reckless and grossly negligent in their failure to exercise due care in the following particulars:

- a. In failing to discover risks and to take safety precautions to warn of or eliminate unreasonable risks, including the foreseeable risk of criminal conduct by others, within the area of invitation on the premises;
- b. In failing to use slight care in protecting Plaintiff as a student from a dangerous location and conditions which it knew or should have known existed by means of warning, security or other reasonable action.

All of which were the direct and proximate causes of the injuries and damages suffered by the Plaintiff herein, said acts being in violation of the statutes and laws of the State of South Carolina.

WHEREFORE, Plaintiffs request judgment against the Defendants, for actual and punitive damages in an appropriate amount, for the cost of this action, and for such other and further relief as the Court may deem just and proper.

CLARK LAW FIRM, LLC  
ATTORNEYS FOR PLAINTIFF



JOHN D. CLARK, ESQUIRE  
22 East Liberty Street  
Post Office Drawer 880  
Sumter, South Carolina 29151-0880  
(803) 775-1234 • (803) 775-8590 fax  
jclark@theclarklawfirm.com

Sumter, South Carolina  
February 22, 2016

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF HORRY )  
 )  
 Terrance J. McLeod )  
 \_\_\_\_\_ )  
 Plaintiff, )  
 vs. )  
 )  
 Jarius Orel English-McMillan, et al )  
 \_\_\_\_\_ )  
 Defendant. )

IN THE COURT OF COMMON PLEAS  
 FIFTEENTH JUDICIAL CIRCUIT  
 CASE NO.: 2016-CP-26-01048  
 MOTION AND ORDER INFORMATION  
 FORM AND COVERSHEET

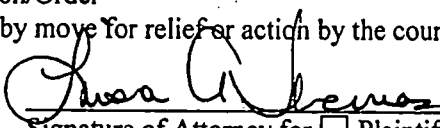
Plaintiff's Attorney: John D. Clark, Bar No. _____ Address: PO Box 880, Sumter, SC 29151 Phone: 803-775-1234 Fax 803-775-8590 E-mail: jclark@theclarklawfirm.com Other: _____	Defendant's Attorney: Lisa A. Thomas, Bar No. 66458 Address: PO Box 1740, Conway, SC 29528 Phone: 843-248-5741 Fax 843-248-5112 E-mail: lthomas@thompsonlaw.com Other: _____
--	---

- MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)
- FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)
- PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

**SECTION I: Hearing Information**

Nature of Motion: Motion to Dismiss  
 Estimated Time Needed: 30 minutes Court Reporter Needed:  YES /  NO

**SECTION II: Motion/Order Type**

Written motion attached  
 Form Motion/Order  
 I hereby move for relief or action by the court as set forth in the attached proposed order.  
  
 Signature of Attorney for  Plaintiff /  Defendant Date submitted 4/27/16

**SECTION III: Motion Fee**

- PAID - AMOUNT: \$ \_\_\_\_\_
- EXEMPT: (check reason)
  - Rule to Show Cause in Child or Spousal Support
  - Domestic Abuse or Abuse and Neglect
  - Indigent Status  State Agency v. Indigent Party
  - Sexually Violent Predator Act  Post-Conviction Relief
  - Motion for Stay in Bankruptcy
  - Motion for Publication  Motion for Execution (Rule 69, SCRPC)
  - Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions  
 Name of Court Reporter: \_\_\_\_\_
  - Other: \_\_\_\_\_

**JUDGE'S SECTION**

Motion Fee to be paid upon filing of the attached order.  
 Other: \_\_\_\_\_ JUDGE CODE \_\_\_\_\_  
 Date: \_\_\_\_\_

**CLERK'S VERIFICATION**

Collected by: \_\_\_\_\_ Date Filed: \_\_\_\_\_  
 MOTION FEE COLLECTED: \$ \_\_\_\_\_  
 CONTESTED - AMOUNT DUE: \$ \_\_\_\_\_

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

**DEFENDANT COASTAL  
CAROLINA UNIVERSITY'S  
NOTICE OF MOTION  
AND MOTION TO DISMISS**

**TO: PLAINTIFF, NAMED ABOVE, AND JOHN D. CLARK, ESQUIRE, HIS  
ATTORNEY OF RECORD**

YOU WILL PLEASE TAKE NOTICE that the Defendant Coastal Carolina University, by and through its undersigned attorneys, will move before the Presiding Judge of the Fifteenth Judicial Circuit, Court of Common Pleas, Horry County, Conway, South Carolina, on the tenth (10th) day after service hereof, or on such day and at such time as the court may appoint, for an Order in the above entitled action granting this Defendant's Motion to Dismiss. This motion will be based on Rule 12(b)(6) of the South Carolina Rules of Civil Procedure, S.C. Code Ann. § 15-78-110, and upon such other pleadings and documents in this matter on file in the Horry County Clerk of Court's office, relevant law, and upon such other documents and arguments as may be presented at the hearing of this motion.

All of which is respectfully submitted.

Lisa A. Thomas, SC Bar #66458  
*Attorneys for the Defendant*  
*Coastal Carolina University*



---

THOMPSON & HENRY, P.A.  
1300 Second Avenue, Third Floor (29526)  
P. O. Box 1740  
Conway, South Carolina 29528  
(843) 248-5741 - voice  
(843) 248-5112 - fax  
lthomas@thompsonlaw.com

April 29, 2016  
Conway, South Carolina

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

**CERTIFICATE OF SERVICE**

I, Lori W. Jennelle, an employee for Thompson & Henry, P.A., attorneys for the

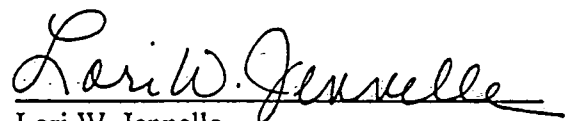
Defendant Coastal Carolina University in the above-captioned action and/or actions, certify that I

have this 29<sup>th</sup> day of April, 2016 mailed a copy and/or copies of the following:

- 1. Defendant Coastal Carolina University's Notice of Motion and Motion to Dismiss**

to the undersigned at his/her address(es) of record, with sufficient postage attached thereto, as follows:

John D. Clark, Esquire  
Sharon Baker Clark, Esquire  
Clark Law Firm, LLC  
22 E. Liberty Street  
P. O. Box 880  
Sumter, SC 29151

  
Lori W. Jennelle  
Legal Assistant to Lisa A. Thomas, Esquire

Conway, South Carolina

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

**CERTIFICATION**

I hereby certify that prior to filing the attached Defendant Coastal Carolina University's Notice of Motion and Motion to Dismiss, I have either consulted with the opposing party and attempted in good faith to resolve the matter or that such consultation would serve no useful purpose or that such consultation could not be timely held in this instance.

This Certificate is made in satisfaction of Rule 11(a) of the South Carolina Rules of Civil Procedure.

Lisa A. Thomas, SC Bar #66458  
*Attorneys for the Defendant*  
*Coastal Carolina University*



THOMPSON & HENRY, P.A.  
1300 Second Avenue, Third Floor (29526)  
P. O. Box 1740  
Conway, South Carolina 29528  
(843) 248-5741 - voice  
(843) 248-5112 - fax  
lthomas@thompsonlaw.com

April 29, 2016  
Conway, South Carolina

STATE OF SOUTH CAROLINA

) IN THE COURT OF COMMON PLEAS

COUNTY OF HORRY

)  
) Docket No.: 2016-CP-26-1048

TERRANCE J. MCLEOD,

)

Plaintiff,

)

v.

)

ANSWER TO PLAINTIFF'S  
AMENDED COMPLAINT  
(Jury Trial Demanded)

JARIUS OREL ENGLISH-MCMILLAN,  
ROLAND SHELLEY, ROLAND G.  
SHELLEY, II, SCOTT C. SHELLEY  
AND COASTAL CAROLINA  
UNIVERSITY,

)

)

)

)

Defendants.

---

Defendants, Roland Shelley, Roland G. Shelley, II, and Scott C. Shelley  
answer and respectfully show unto the Court:

**FOR A FIRST DEFENSE**

1. These answering Defendants demand a jury trial.
2. Upon information and belief, the allegations of Paragraph 1 of the Amended Complaint are admitted.
3. Upon information and belief, the allegations of Paragraph 2 of the Amended Complaint are admitted.
4. Answering the allegations of Paragraph 3 of the Amended Complaint, it is admitted that the Shelleys are owners of 1501 Pace Circle in Conway, SC. The remaining allegations of Paragraph 3 are denied and strict proof is demanded thereof.
5. Upon information and belief, the allegations of Paragraph 4 of the Amended Complaint are admitted.
6. These answering Defendants are without sufficient inform or knowledge to form a belief as to the allegations of Paragraph 5 of the Amended Complaint, therefore said paragraph is denied and strict proof is demanded thereof.

7. The allegations of Paragraph 6 of the Amended Complaint directed towards this answering Defendant are denied and strict proof is demanded thereof.

8. Answering the allegations of Paragraph 7 of the Amended Complaint, these Defendants reiterate and reallege their responses to Paragraphs 1-6 above as if repeated verbatim herein.

9. Answering the allegations of Paragraph 8, upon information and belief, it is admitted that a party occurred on February 16, 2014. Further, these Defendants deny knowledge of any party on February 16, 2014 or knowledge of any activities occurring at said party.

10. Answering the allegations of Paragraph 9 of the Amended Complaint, upon information and belief, the Plaintiff was attending a function and was attacked by Defendant, Jarius Orel English-McMillan. These Defendants deny knowledge of any such party, any such attack and any information or knowledge concerning any injuries alleged by the Plaintiff in this matter.

11. Answering the allegations of Paragraph 10 of the Amended Complaint, these Defendants have no information or knowledge concerning the series of events of February 16, 2014. To the extent these allegations allege a cause of action against these Defendants, said allegation is denied and strict proof is demanded thereof.

12. Answering the allegations of Paragraph 11 of the Amended Complaint, to the extent these allegations construe a cause of action against this Defendant said allegations are denied and strict proof is demanded thereof.

13. Answering the allegations of Paragraph 12 of the Amended Complaint, these answering Defendants reiterate and reallege their responses to the allegations of Paragraphs 1-11 above as if repeated verbatim herein.

14. The allegations of Paragraph 13 of the Amended Complaint are not directed towards these answering Defendants. To the extent these allegations could be construed to form a cause of action against these answering Defendants, said allegations are denied and strict proof is demanded thereof.

15. Answering the allegations of Paragraph 14 of the Amended Complaint, these answering Defendants reiterate and reallege their responses to the allegations of Paragraphs 1-13 above as if repeated verbatim herein.

16. The allegations of Paragraph 15 (including subparts) directed towards these answering Defendants are denied and strict proof is demanded thereof.

17. Except as specifically admitted, qualified, or explained, Defendant denies the allegations and demands strict proof of each allegation.

**AS AN ADDITIONAL DEFENSE**  
**(Comparative Negligence)**

18. FURTHER ANSWERING, any injury and damage sustained by Plaintiff may have been caused by the negligence or willfulness of Plaintiff, combining, concurring, and contributing with the negligence or willfulness, if any, by others. Therefore, the Court should reduce any recovery awarded to Plaintiff for the alleged injuries and damage based upon the percentage of negligence or willfulness attributed to Plaintiff.

**AS AN ADDITIONAL DEFENSE**  
**(Punitive Damages)**

19. FURTHER ANSWERING, any award of punitive damages would violate the constitutional safeguards provided by the Due Process Clause of the Fourteenth Amendment of the United States Constitution and under the Due Process Clause of Article I, Section 3 of the South Carolina Constitution because the determination of punitive damages does not bear any reasonable relationship to the amount of actual damages, if any, suffered by or awarded.

**AS AN ADDITIONAL DEFENSE**  
**(Sole Negligence of Terrance J. McLeod)**

20. FURTHER ANSWERING, any injury or damage sustained was due to and caused by the sole negligence, gross negligence, willfulness, wantonness, or carelessness on the part of Terrance J. McLeod over whom these answering Defendants had or have no authority or control.

**AS AN ADDITIONAL DEFENSE**

**(Sole Negligence of Jarius Orel English-McMillan)**

21. FURTHER ANSWERING, any injury or damage sustained was due to and caused by the sole negligence, gross negligence, willfulness, wantonness, or carelessness on the part of Jarius Orel English-McMillan over whom these answering Defendants had or have no authority or control.

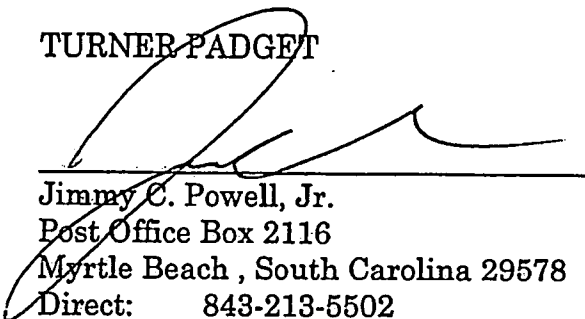
**AS AN ADDITIONAL DEFENSE**

**(Lack of Duty)**

22. All claims of the Plaintiff, Terrance J. McLeod should be dismissed as these answering Defendants have no legal duty to Terrance J. McLeod.

WHEREFORE, having answered, Defendant asks this Court to dismiss the Complaint and to grant such other and further relief as this Court deems just and proper.

TURNER PADGET

  
\_\_\_\_\_  
Jimmy C. Powell, Jr.  
Post Office Box 2116  
Myrtle Beach, South Carolina 29578  
Direct: 843-213-5502  
Fax: 843-213-5602

Myrtle Beach, South Carolina  
June 06, 2016

ATTORNEYS FOR DEFENDANT

STATE OF SOUTH CAROLINA

) IN THE COURT OF COMMON PLEAS

COUNTY OF HORRY

)  
) Docket No.: 2016-CP-26-1048

TERRANCE J. MCLEOD,

)

Plaintiff,

)

)

v.

)

)

CERTIFICATE OF SERVICE

JARIUS OREL ENGLISH-MCMILLAN,

)

ROLAND SHELLEY, ROLAND G.

)

SHELLEY, II, SCOTT C. SHELLEY

)

AND COASTAL CAROLINA

UNIVERSITY,

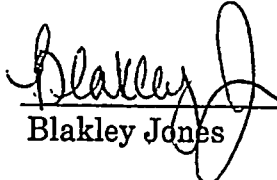
Defendants.

---

On June 6, 2016 I mailed a copy of Defendant's Answer to Plaintiff's Amended Complaint, Interrogatories and Request for Production to Plaintiff to:

John D. Clark  
Clark Law Firm, LLC  
Post Office Drawer 880  
22 East Liberty Street  
Sumter, SC 29151-0880

Attorneys for Plaintiff

  
Blakley Jones

# Turner | Padget

Jimmy C. Powell, Jr.  
Direct Dial: 843-213-5502  
Direct Fax: 843-213-5602  
[ipowell@turnerpadget.com](mailto:ipowell@turnerpadget.com)

June 6, 2016

Melanie Huggins-Ward  
Horry County Clerk of Court  
Post Office Box 677  
Conway South Carolina 29526

Re: McLeod v. English-McMillan, Shelley, Shelley, Shelley and Coastal  
Carolina University

Docket No.: 2016-CP-26-1048

Claim No: 669312865039

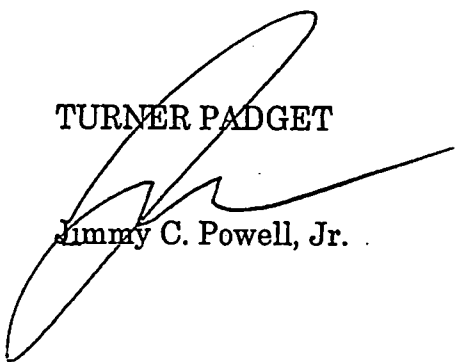
TP File No.: 01464.07442

Dear Madam Clerk:

We enclose the original and one copy of the Answer in this case. Please file the original and return a filed copy to me in the enclosed envelope. By copy of this letter, we are serving a copy and discovery requests to Plaintiff's attorney. If you have any questions or need additional information, please call me at your convenience.

With kind regards,

TURNER PADGET

  
Jimmy C. Powell, Jr.

JCPjr:bj  
Enclosures

Cc: John D. Clark

STATE OF SOUTH CAROLINA ) IN THE COURT OF COMMON PLEAS

COUNTY OF HORRY ) 2016-CP-26-01048

Terrance J. McLeod, )  
 )  
 Plaintiff, ) Transcript of Record  
 )  
 vs. ) June 14, 2016  
 )  
 Jarius Orel English-McMillan, )  
 Roland Shelley, Roland G. Shelly, )  
 II, Scott C. Shelley and )  
 Coastal Carolina University, )  
 )  
 Defendants. )

B E F O R E:

Honorable Benjamin H. Culbertson  
Horry County Courthouse  
Conway, South Carolina

A P P E A R A N C E S:

John D. Clark, Esquire  
Attorney for Plaintiff

Lisa A. Thomas, Esquire  
Attorney for Defendant,  
Coastal Carolina University

Grace L. Hurley, CVR-CM-M  
Circuit Court Reporter

RECEIVED OCT 05 2016

1 (There were no exhibits marked during the hearing.)  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

1 (On the record, June 14, 2016.)

2 THE COURT: 2016-CP-26-1048, Terrence J. McLeod versus  
3 Jarius Orel English-McMillan, and others. According to my  
4 roster the matter is before the Court on a motion to dismiss.  
5 Please give the court reporter your names and who you  
6 represent.

7 MS. THOMAS: Certainly, Lisa Thomas, Your Honor, on  
8 behalf of Coastal Carolina University.

9 THE COURT: All right.

10 MR. CLARK: Good morning, Your Honor. I'm John D. Clark  
11 on behalf of the Plaintiff, Terrance McLeod.

12 THE COURT: All right. Ms. Thomas, this is your motion?

13 MS. THOMAS: Yes, Your Honor.

14 THE COURT: All right. Let me hear from you.

15 MS. THOMAS: Your Honor, this is, again, a motion to  
16 dismiss. In looking at the four corners of the complaint, the  
17 allegations are that the Plaintiff went to an off-campus party  
18 on private property that was not a function of the university,  
19 there are no allegations that any university employees or  
20 agents were involved, and got into an altercation with another  
21 student. They have sued the university alleging assault and  
22 battery, intentional infliction of emotional distress and  
23 gross negligence, and Your Honor, by the admissions in this  
24 document and the allegations in this document, we bring this  
25 12(b)(6) motion stating that there is no cause of action

1 against the university, there is no duty for the university to  
2 intervene in the actions of adult students after hours engaged  
3 in non-university activities to either preclude them for doing  
4 this, nor do they have the power to preclude them for doing  
5 this or to warn them of going to parties where, as alleged in  
6 the complaint, there was excessive consumption of alcohol.  
7 So, Your Honor, we put forth that we do not believe there is a  
8 cause of action, much less any cause of action for gross  
9 negligent, within the four corners of this complaint as to  
10 Coastal Carolina University.

11 THE COURT: All right. Mr. Clark.

12 MR. CLARK: May it please the Court, Your Honor. Your  
13 Honor, I believe the Defendant's argument is improper at this  
14 stage of the proceeding in that we have alleged gross  
15 negligence and that the university would be liable under the  
16 Tort Claims Act 15-78-60, Subsection 25 if they did not  
17 exercise duty of supervision, protection, control, custody of  
18 a student if they exercise it in gross, in a grossly negligent  
19 manner, and we've alleged that, and whether or not the  
20 university had a duty is a factual legal issue that might be  
21 addressed at summary judgment, at the summary judgment stage,  
22 but to say that the pleadings, which allege gross negligence,  
23 does not state a cause of action I think is, is inappropriate  
24 at this stage of the proceeding, Your Honor. That's, that's  
25 our position on, on that issue.

1 THE COURT: All right. Thank you. Anything in reply?

2 MS. THOMAS: Your Honor, if I, if I could point out in,  
3 in the words of the complaint, paragraph three, they allege  
4 that the residence where this altercation took place is a  
5 privately owned residence. There are no allegations of any  
6 connection whatsoever to the university. Furthermore, they  
7 have named for the alleged assault and battery which occurred  
8 in February of 2014 the party who committed this act, who is a  
9 Co-Defendant, Jarius Orel English-McMillan. There are no

10 allegations of any involvement by any employee, any agent of

11 Coastal Carolina University. The only nexus with the

12 university is that apparently these two students who were

13 involved in the altercation, these two gentlemen were both

14 students. The complaint itself does not allege that this was

15 a sanctioned event, that it was any function of the

16 university, that it was on university property, and in fact it

17 states emphatically it was on a private residence and the

18 owners of that private residence are named as Defendants in

19 this case as well. Your Honor, we just feel that merely

20 asserting gross negligence without any nexus, without any

21 facts whatsoever, just asserting a conclusory statement is not

22 enough to hold Coastal Carolina in this suit.

23 THE COURT: All right. All right. I'm going to grant

24 your motion, Ms. Thomas. If you would prepare an order that

25 basically says that the complaint fails to allege any cause of

1 action upon which relief can be granted. I mean, I understand  
2 your argument, but the complaint in and of itself basically  
3 admits that there is no duty by Coastal Carolina, private  
4 property, off campus, and all you've got are two students that  
5 went to Coastal Carolina, and that's not sufficient to create  
6 any type of duty by the university. So I'm going to grant the  
7 motion. All right.

8 MS. THOMAS: Thank you, Your Honor.

9 THE COURT: Thank you.

10

(Adjourned.)

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

C E R T I F I C A T E

I, the undersigned, Grace L. Hurley, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the Hearing held in the case of Terrance J. McLeod versus Jarius Orel English-McMillan, et al., held in the Court of Common Pleas for Horry County, Horry County Courthouse, Conway, South Carolina, on June 14, 2016.

I do hereby certify that I am neither of kin, counsel, nor interest to any party hereto.

Grace L. Hurley

Grace L. Hurley, CVR-CM-M  
Official Reporter

October 3, 2016.

3

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

HORRY COUNTY  
2016 JUL 13 PM 3:19  
MELANIE M. WAINO  
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

1 / MHC

COPY

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

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

HORRY COUNTY  
 2016 JUL 13 PM 3:19  
 MELANIE K. BURNETT-WARE  
 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

COPY

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