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DEC -2 2016

S.C. SUPREME COURT

State of South Carolina
vs the Supreme Court

James B. Blakely... Petitioner,

vs.

South Carolina Dept.
of Corrections, et al... Defendants

Petitioner's Opposition
to Dismissal

Petitioner will argue that a judgment on the pleadings against the plaintiff is not proper if there is an issue of fact raised by the Complaint which if resolved in favor of the plaintiff would entitle him to judgment. See *Brown v. United Insurance Company of America*, 268 S.C. 254, 233 S.E. 2d 298 (1977).

(1)

Moreover, a Complaint is sufficient if it states any cause of action or it appears that the plaintiff is entitled to any relief whatsoever. (See Exhibit A). Baldwin v. Sanders, 266 S.C. 394, 223 S.E. 2d 602 (1976). Our Courts have held that pleading in a case should be construed liberally so that substantial justice is done between the parties. Mannings v. Dial, 271 S.C. 79, 245 S.E. 120 (1978). Further, a judgment on the pleadings is considered to be a drastic procedure by our Courts. U.S. Casualty Company v. Hiers, 233 S.C. 333, 104 S.E. 2d 561 (1958). Petitioner's Motion to Compel was not ruled upon by Judge Lee. There should have been a ruling

(2)

upon the Motion to Compel
before dismissing petitioner's
Case.

Discovery is valid, esp-
specially, the discovery of petit-
itioner's Medical records, which
petitioner was actually denied.

Petitioner's Medical record
was evidence of petitioner's
Medical needs. This Medical
record could have been used
in search of a physician
to aid petitioner's Case.

The fact, there should not
have been a ruling until
discovery was fully provided,
for discovery do matter.

Petitioner's due process was
violated and it was cruel and
unusual punishment for
petitioner, whom is indigent,
and a diabetic not to be
provided shoes, nor a good
blanket. Judge Lee Witnessed
that petitioner's was wearing shoes
~~that~~ that had holes in the

bottom of the shoes and these shoes were inadequate to protect petitioner's feet from water and germs.

Being a diabetic it's a medical need to have shoes to keep one foot dry and free from germs. Defendant have not yet provided petitioner with any shoes and refuse to do so.

Petitioner is a ward of the state and have a constitutional right to shoes. It was an abuse of discretion for Judge Lee to dismiss petitioner's case.

Judge Lee was aware of defendant's violation and failed to order defendant to comply with discovery. Petitioner presented physical evidence of cruelty that could not be disputed, (see Exhibit B), that in itself was grounds for a jury trial.

(4)

Respectfully Submitted

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Dated: 11 / 116

Copies: jgb
jrh

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