

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

Appeal from Richland County

Tanya A. Gee, Circuit Court Judge

Appellate Case No. 2016-000066

RECEIVED

FEB 28 2017

SC Court of Appeals

Terry Campbell,

Appellant,

v.

The State of South Carolina, S.C.D.C., Director Bryan Stirling,

Warden Bernard McKie, Officers Lt. McCoughlin and Aubrey Pounds,

Respondents.

RECORD ON APPEAL

Terry Campbell pro se 281286

Catawba Pre-Release

1030 Milling Road

Rock Hill, S.C. 29730

Steven R. Spreewers

Davidson + Lindemann, P.A.

1611 Devonshire Dr, 2nd Floor

P.O. Box 8568

Columbia, S.C. 29202-8568

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FEB 28 2017

SC Court of Appeals

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or her official duties. *See Flateau v. Harrelson*, 355 S.C. 197, 584 S.E.2d 413 (Ct. App. 2003). Similarly, a plaintiff bringing an action under the Tort Claims Act is required to name "only the agency or political subdivision for which the employee was acting." § 15-78-70(c). Therefore, Defendants Stirling, McKie, McLaughlin, and Pounds must be dismissed as a matter of law.

(SCDC must be substituted, 15-78-70(c))

3. The State of South Carolina is not a proper party to this suit pursuant to the provisions of S.C. Code Ann. § 15-78-70(c).

4. The Summons and Complaint were never properly served upon Defendants, in accordance with the applicable rules of civil procedure, and therefore this matter must be dismissed for lack of proper service of process pursuant to Rule 12(b)(5). *These were served*

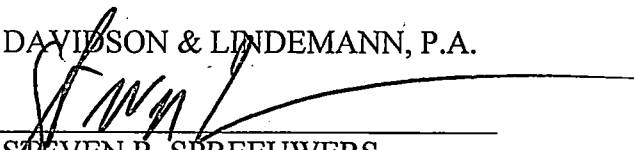
5. Plaintiff has failed to bring this action within the applicable statute of limitations, S.C. Code Ann. § 15-78-110, and therefore, the Complaint must be dismissed.

This motion is based on the pleadings, the matters on file with the court regarding this case, the South Carolina Rules of Civil Procedure, the Laws of the State of South Carolina, the Case Law of the State of South Carolina, and such other matters as may be properly presented to the Court at the time of the hearing.

Respectfully submitted,

DAVIDSON & LINDEMANN, P.A.

BY:


STEVEN R. SPREEUWERS

Post Office Box 8568

Columbia, South Carolina 29202

sspreeuwiers@dml-law.com

T: (803) 806-8222

Counsel for Defendants

Columbia, South Carolina

July 28, 2015

STATE OF SOUTH CAROLINA

) IN THE COURT OF COMMON PLEAS

COUNTY OF RICHLAND

) Civil Action Number: 2015-CP-40-3381

)
)
) Terry Douglas Campbell,

)
) Plaintiff,

)
) v.

)
) The State of South Carolina; Director of South
) Carolina Department of Corrections, Bryan
) Stirling; Warden Bernard McKie; Officers Lt.
) McLaughlin and Aubrey Pounds,

)
) Defendants.
)

ORDER

JEANNETTE M. MORRIS
2015 NOV 16 PM 4:02
RICHLAND COUNTY

This matter is before the Court upon the motion of Defendants for an Order dismissing this action in its entirety. Among other grounds, Defendants sought an Order dismissing this action as time-barred by the applicable statute of limitations. A hearing was held in this matter before the undersigned on November 5, 2015. Present at the time and offering arguments were Plaintiff, who appeared *pro se*, and Steve Spreewers, counsel for Defendants. After carefully considering the arguments made and the matters on file in this case, the Court finds that this matter should be dismissed with prejudice.

Because the Defendants are all governmental entities, or employees of governmental entities affirmatively alleged to have been acting within the scope of their official duties, this matter is controlled by the provisions of the South Carolina Tort Claims Act (TCA). The TCA is the exclusive remedy for any tort committed by an employee of a governmental entity. S.C. Code Ann. § 15-78-70(a). The TCA has a two-year statute of limitations, found in S.C. Code Ann. § 15-78-110. That section provides that "any action brought pursuant to this chapter is forever

1 JAG

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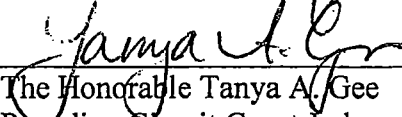
(24)(4)

barred unless an action is commenced within two years after the date the loss was or should have been discovered" S.C. Code Ann. § 15-78-110.

This matter arises out of Plaintiff's trip and fall at Kirkland Correctional Institution while he was an inmate there. According to the Complaint, this trip and fall occurred on March 4, 2013. However, based on the Clerk's stamp on the face of the Complaint, the Complaint was not filed until June 8, 2015. Because this matter is controlled by the specific statute of limitations found in the TCA, the Court finds that this matter is time-barred since more than two years elapsed between the injury and the filing of the Complaint.

IT IS THEREFORE ORDERED that the claims asserted by Plaintiff against Defendants be dismissed with prejudice.

AND IT IS SO ORDERED.


The Honorable Tanya A. Gee
Presiding Circuit Court Judge

Dated: November 16, 2015

Columbia, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND
IN THE COURT OF COMMON PLEAS
Terry Douglas #281286

JUDGMENT IN A CIVIL CASE

CASE NUMBER: 2015CP4003381

State of South Carolina

PLAINTIFF(S)

SCDC

DEFENDANT(S)

Submitted by: _____

Attorney for : Plaintiff Defendant or Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON): Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Other Dismissed without prejudice
- ACTION STRICKEN (CHECK REASON): Rule 43(k), SCRPC (Settled); Rule 40(j), SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX): Affirmed; Reversed; Remanded; Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

ORDER INFORMATION

Defendant's Motion to Dismiss is granted. This action falls under the two-year statute of limitations provided in section 15-78-110. Here, the complaint alleges the incident occurred on 3/4/2013, and the action was not filed until 6/8/2015.

This order ends does not end the case.

Additional Information for the Clerk : _____

INFORMATION FOR THE PUBLIC INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled
		\$
		\$
		\$

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge Janya L. G. Judge Code 2756 Date November 5, 2015

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter _____

Clerk of Court Jeanette W. McBride

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NUMBER: 2015CP4003381

Terry Douglas #281286 Campbell

State of South Carolina

PLAINTIFF(S)

SCDC

DEFENDANT(S)

Submitted by: _____

Attorney for : Plaintiff Defendant or Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Mansuit); Rule 43(k), SCRPC (Settled); Other _____
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration awards; Other _____
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other _____

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 NOV 18 AM 11:08
 CLERK OF COURT
 RICHLAND COUNTY

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the court:

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk : _____

INFORMATION FOR THE PUBLIC INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge _____ Judge Code _____ Date _____

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20 _____ and a copy mailed first class or placed in the appropriate attorney's box on this 18 November 2015 to attorneys of record or to parties (when appearing pro se) as follows:

Terry Douglas #281286
Campbell

Steven Richard Spreewers

Terry Douglas #281286
Campbell

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter _____

Clerk of Court _____

Jeane L. White



STATE OF SOUTH CAROLINA
 COUNTY OF RICHLAND
 IN THE COURT OF COMMON PLEAS

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NUMBER: 2014-CP-40-03104
 IS 3381

Terry Douglas Campbell

SC Department of Corrections

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: _____

Attorney for: Plaintiff Defendant or Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON): Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other _____
- ACTION STRICKEN (CHECK REASON): Rule 40(j), SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other _____
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX): Affirmed; Reversed; Remanded; Other _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

ORDER INFORMATION

After careful consideration, the Plaintiff's Motion to Alter or Amend the order granting summary judgment is respectfully denied.

This order ends does not end the case.

Additional Information for the Clerk:

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge

Jana L. G.

Judge Code 2756

Date 11/23/2015

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this 25 day of Nov, 2015 to attorneys of record or to parties (when appearing pro se) as follows:

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter

SCRPC Form 4C (10/2011)

Clerk of Court

Jeanette W. Mc...

SCANNED

punishment.

2. This claim is for negligence of the State of South Carolina et.al. for subjecting the plaintiff to known hazards which caused him to fall and sustain serious injuries while acting within the scope of their employment and in the discharge of their duties at the South Carolina Department of Corrections, Kirkland Correctional Institution located at 4344 Broad River Road in Columbia South Carolina.

3. It is the duty of the State to provide its prisoners with shelter which does not cause him degeneration or threaten his mental and physical well being. The State neglected this duty on 3-4-13, by ordering the plaintiff to walk through the tunnel leading into K.C.I. while wearing hand and leg restraints which the officers were aware could become entangled in the grating causing the prisoner to fall.

4. The Richland County Court of Common Pleas is the proper venue and exercises jurisdiction as this is where the action occurred giving rise to these claims.

5. At the entrance of the tunnel leading into K.C.I., grating is situated into the concrete walkway running alongside the wall, parallel with the tunnel. As I along with 3 other inmates stood there, S.C.D.C. Officer Aubrey Pounds warned us not to stand on the grating because our leg chains could fall between the grating which could cause us to fall.
6. After standing at the entrance of the tunnel for nearly 30 minutes while awaiting the Officers to undergo their searches, we were ordered to proceed through the tunnel. At approximately midway of the tunnel we came to a gate which was open. In front of this gate was more grating, only this grating ran from side to side of the tunnel and could not be avoided walking over.
7. Upon crossing this grating, my leg chains fell into the grating which suddenly and unexpectedly trapped my feet causing me to fall very hard to the concrete. Due to the fact that I was wearing hand cuffs and belly chains, I could do nothing to break my fall. (See Exhibit A, Incident Report).

8. The leg shackles lacerated my left ankle plus done further damage as the ankle was swollen terribly which caused me to be unable to walk and confined to a wheelchair for approximately 6 weeks. As I fell I also suffered injuries to my left knee, right wrist and right elbow. (See Exhibit B).

9. On 3-4-13, the defendants had actual knowledge of the hazards posed by anyone walking over the grating while wearing restraints as evidenced by Officer Aubrey Pounds warning to avoid standing on the grating.

10. The plaintiff did exhaust his grievance process by filing Inmate Grievance Steps I and II and by appealing to the Administrative Law Court which has not responded after nearly 6 months (See Exhibit C).

WHEREFORE, plaintiff respectfully requests judgment against the defendants in the amount of seventy-five thousand dollars \$ 75,000 for actual damages, punitive damages to be decided by the jury plus all costs associated with filing this claim.

I declare under the penalty of perjury that the foregoing is true and correct.

Jerry Campbell

Terry Campbell 281286

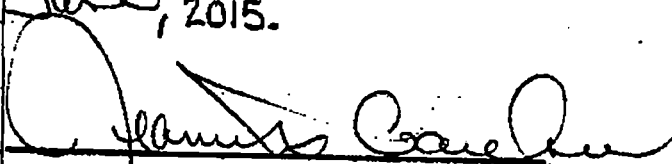
Catawba Pre Release

1030 Milling Road

Rock Hill, S.C. 29730

Date 6-2-2015

SWORN TO BEFORE ME this 2 day of
June, 2015.



Notary Public for South Carolina

My commission expires: 9-31-2031

EXHIBIT

A

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INCIDENT REPORT

Page 1 of 1

Institution/Center: <u>KCI</u>				
Date of Report: <u>Approx: 3-4-13</u>			Time of Report: <u>Approx: 8:00 pm</u>	
Reporting Official: <u>Aubrey Pounds</u>			Date of Incident: <u>Approx: 3-4-13</u>	
Location of Incident: <u>Tunnel of KCI</u>			Time of Incident: <u>Approx: 6:30 pm</u>	
Inmate(s)/Resident:	SCDC#	Age	Race	Sex
1. <u>Terry Campbell</u>	<u>281286</u>	<u></u>	<u>W</u>	<u>M</u>
2.				
3.				
4.				
5.				

Employee(s) Involved:
1.
2.
3.
4.
5.

On the above date and approximate time: On 3-4-13, I Ofc. Pounds 047569, was transporting I/m Terry Campbell SCDC # 281286 back to Kirkland from a Court run he had that day. While walking in the tunnel at KCI mid point in the tunnel I/m Campbell leg iron got trapped in the grid of the tunnel. This caused I/m Campbell to fall forward hurting himself. A wheel chair was given to help I/m Campbell be transported to the infirmary for medical attention.

Signature: Ofc. Pounds

Evidence:

Witness(es):

Supervisor's Comments:

Signature: _____ Title: _____ Date/Time: _____

Major / Responsible Authority:

Signature: _____ Title: _____ Date: _____

STG Related - Refer to STG Committee
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown
This Incident is DRUG related
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown

Action Taken
<input type="checkbox"/> Informal Resolution
<input type="checkbox"/> Administrative Resolution
<input type="checkbox"/> Refer to Disciplinary Hearing

EXHIBIT

B

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
Division of Health Services

APPOINTMENT/INFORMATION CARD

Dr. De Byne

DATE	TIME	CLINIC/INFORMATION
3/4/13		BOTTOM FLOOR
3/4/13		BOTTOM BUNK
3/4/13		Wheel chair
3/5/13		X-ray of ankle Foot

SCDC# 281286

NAME: Campbell Terry

EXHIBIT

C

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 1

INMATE NAME: Terry Campbell
SCDC NUMBER: 281286
INSTITUTION: Kirkland R+E
HOUSING UNIT: F-3 161
WORK ASSIGNMENT: n/a

3/8/13
①

Office Use Only
Grievance No. 0351-B
Code: General ICITS
Policy _____
Disc. Hear. _____
Class _____
Date Received 3-11-13
IGC Initials KY

STATE GRIEVANCE (include documentation, and date of incident; if SCDC Policy, indicate which policy)

I was being transferred back here from Spitz Co. on Monday 3-4-13. As I was being led in through a tunnel like structure with Ivy growing on the walls we came to a gate. There was grating on the ground at the gate. I was shackled and chained. My chain on my shackles fell into this grating as I was walking. My feet became trapped. My forward momentum caused me to fall very hard to the concrete injuring my left ankle, left knee, Rt elbow and both wrists.

ACTION REQUESTED:

I request that the grating be covered up where shackled inmates have to walk or either bring in shackled inmates another route.

SPECIFY HOW AND WHEN INFORMAL RESOLUTION WAS ATTEMPTED BY GRIEVANT:

I told guards that something should be done about the grating

Terry Campbell 3-7-13
Grievant Signature Date

ACTION TAKEN BY IGC:

IAC has reviewed. See warden response

I accept the action taken by the IGC and consider the matter closed.
 I do not accept the action taken and wish to appeal.

KY 8-13-13
IGC Signature Date

NA
Grievant Signature Date

WARDEN'S DECISION AND REASON:

Inmate Campbell:

This is in reference to grievance KCI 0351-13

I have reviewed your grievance and the facts. The allegations you have raised concerning the drain grates contributing to your fall, in the tunnel at Kirkland Reception and Evaluation Center cannot be substantiated. Per, Lt. McLaughlin, the drain grates are in compliance with building codes and standards. However, it's unfortunate you fell, which resulted with an ankle injury. Documentation provided revealed you received medical attention and treatment concerning your injury.

Therefore, your grievance is denied. If you are not satisfied with my decision you may appeal to the appropriate responsible official within five (5) days of receipt, via the Institutional Grievance Coordinator.

Bernie Ucker 8/13/13
Warden Signature Date

- I accept the Warden's decision and consider the matter closed.
- I do not accept the Warden's decision and wish to appeal.

Jerry Campbell 9-11-13
Grievant Signature Date

K. Y. [Signature] 8-14-13
IGC Signature Date
Served by: [Signature] 9-11-13

INSTRUCTIONS FOR COMPLETING STEP 1 GRIEVANCE FORM

1. An informal resolution shall be attempted prior to the filing of Step 1.
2. Complete each section in its entirety, writing only in the space provided for inmate use.
3. Only one (1) issue is to be addressed on each form.
4. Submit the completed form to the Institutional Grievance Coordinator within fifteen (15) days of an alleged incident; policy grievances at any time. Do not write in the space provided for the Warden's response.
5. If you are not satisfied with the Warden's decision, you may appeal to the appropriate responsible official within five (5) days of your receipt of the Warden's decision, via the Institutional Grievance Coordinator.

PT

Due By: 9-16-13

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS
INMATE GRIEVANCE FORM
STEP 2

INMATE NAME: Terry Douglas Campbell
 SCDC NUMBER: 281286
 INSTITUTION: Livesay A
 HOUSING UNIT: Dorm A-35
 WORK ASSIGNMENT: Solid Waste 1

RECEIVED

NOV 12 2013

Office Use Only
 Grievance No. 604-0351-B
 Code: General IC/IS
 Policy _____
 Disc. Hear. _____
 Class. _____
 Date Received 9/12/13
 IGC Initials SP

INMATE GRIEVANCE

INMATE'S REASON FOR APPEAL (state specific dissatisfaction): I disagree with the Warden's response. The grating was what caused me to fall as my leg restraints (ham) fell into a grating becoming trapped. The guards are well aware of this as they've told me before not to stand on the gratings near entrance because it will make you fall. The way I was led in and where I fell I had no other choice than to walk over the grating. The fact that the grating meets building codes doesn't change the fact that my leg irons fell into it. The Warden doesn't want to assume responsibility and I fear that others will get hurt also. The solution is very simple but he won't change anything. The grating could be covered at the gate, inmates could be led in a different route or the leg irons could be removed once entering the first gate. The medical attention I received was inadequate because I wasn't properly evaluated and never allowed to tell of my injuries.

Terry Campbell
 Grievant Signature 9-11-13
Date

RESPONSIBLE OFFICIAL'S DECISION AND REASON:

Your concern has been reviewed. While it is unfortunate you fell, the drain gratings are in compliance with the building codes. Additionally, you were seen and treated by medical. Your allegations against the medical staff cannot be substantiated. Therefore, your grievance is denied.

You may appeal this decision under the Administrative Procedures Act to the Administrative Law Court. In order to appeal, you must fill out the attached Notice of Appeal Form and submit it as instructed on the form within 30 days of receipt.

JWA
 Signature 11/14/2014
Date

The decision rendered by the responsible official exhausts the appeal process of the Inmate Grievance Procedure. I hereby acknowledge receipt of the official's response and understand this is the Agency's final response to this matter.

Terry Campbell
 Grievant Signature 11-20-14
Date

S. Pate
 IGC Signature 11/20/14
Date

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND) FIFTH JUDICIAL CIRCUIT

2015-CP-40-03381

Terry Campbell,)
)
Plaintiff,)
)
v.) Transcript of Record
)
State of South Carolina,)
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Defendant.)
)
)
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November 5, 2015
Columbia, South Carolina

B E F O R E:

The Honorable Tanya A. Gee, Judge

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

Terry Campbell, Pro Se
Attorney for the Himself

Steve Sprayworse, Esquire
Attorneys for the Defendant

Hilda M. Jordan, CVR-M
Circuit Court Reporter

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I N D E X

WITNESS/DESCRIPTION

PAGE NO.

Motion Hearing

EXHIBITS:

No exhibits were marked to this proceeding.

Certificate of Court Reporter 10

1 THE COURT: All right. The next case is Terry
2 Douglas Campbell verses the State of South Carolina.

3 All right. Mr. Campbell, before we begin, I do want to
4 take a minute to commend you on your handwriting. This is
5 about the prettiest handwriting I've ever seen. Neat, nice
6 handwriting.

7 MR. CAMPBELL: Thank you, Your Honor.

8 THE COURT: I really appreciate that. Thank you.

9 I have looked at this file prior to coming out. I
10 understand that there are several motions that are pending
11 in this case. I understand that the underlying action is an
12 action involving the Plaintiff suing for negligence because
13 he was walking with leg chains and the chains, according to
14 him, fell into a grate and the guards were helping him walk
15 and know that there had been a problem with chains falling
16 into the grate. Mr. Campbell fell and was injured on
17 concrete.

18 We have before me several motions. The first
19 chronologically is a Motion to Dismiss or in the alternative
20 a Motion for Summary Judgment that the Defendants have filed
21 arguing a number of reasons to dismiss this action. And it
22 was -- how do you pronounce your last name?

23 MR. SPRAYWORSE: Sprayworse (sp).

24 THE COURT: Sprayworse, okay. All right, Mr.
25 Sprayworse on that Motion to Dismiss.

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MR. SPRAYWORSE: Thank you, Your Honor.

THE COURT: You can take a seat, Mr. Campbell, if you'd like, while he argues.

MR. SPRAYWORSE: May it please the Court, Your Honor, Steve Sprayworse on behalf of each of the Defendants. As you correctly note, we filed a Motion to Dismiss citing several -- the primary concern for the Motion to Dismiss was that this action is barred by the Statute of Limitations by way of a little background, as this involves allegations of negligence by employees of an governmental entity, the Tort Claims Act controls. That is the exclusive remedy. Mr. Campbell identified as much by citing two Tort Claims Act -- a portion of it in his Complaint.

Your Honor, the Tort Claims Act has a two year statute of limitations as found in South Carolina Code 15-78-110. I have copies of that statute if it's necessary.

THE COURT: I looked at it before coming out. There is a two year statute of limitations unless there is a disability or insanity or underage. So I did look at that.

MR. SPRAYWORSE: That is correct, Your Honor and I will point Your Honor to several instances in the Complaint. Paragraph one, three and nine where Mr. Campbell affirmatively alleges that this accident occurred in March of 2013. Also on the face of the Complaint is the Clerk of Court's date stamp which indicates that this matter was

1 first filed June 8, 2015, which is over three months beyond
2 the time --

3 THE COURT: Over three -- yeah, over three months
4 beyond the two years. Sorry.

5 MR. SPRAYWORSE: Beyond the two year statute of
6 limitations, Your Honor. And so it's our position that
7 disposes of this matter and requires dismissal.

8 If Your Honor is agreeable I'll discuss the other
9 grounds in the Motion.

10 THE COURT: I'd like to hear from Mr. Campbell on
11 the statute of limitations, first. Sir?

12 MR. CAMPBELL: First, Your Honor, I received this
13 Notice of these Motion hearings approximately two weeks ago
14 and in them it said that they are a Memorandum of Law that's
15 due by October 28. I have these right here, I'd like to
16 submit to the Court that it is my Memorandum of Law that I
17 put together.

18 THE COURT: Okay.

19 MR. CAMPBELL: And it was mailed and it shows that
20 it was mailed on October 24 and it came back to me on Monday
21 and I didn't have time --

22 THE COURT: No problem. I'll take a look at it.
23 (Documents passed to the Court.)

24 THE COURT: Thank you.

25 All right, and do you address the statute of

1 limitations in your memo?

2 MR. CAMPBELL: Yes, ma'am.

3 THE COURT: I see it on Page 6. I'm going to pull
4 up the statute that you cite. Actually, I can reach behind
5 my law clerk and get the book.

6 MR. CAMPBELL: I've got a paper right here that's
7 got it on it.

8 THE COURT: Okay, you can hand that up, too.
9 (Document handed up to the Court.)

10 All right, so you are citing to the general
11 statute of limitations for negligence actions which is three
12 years.

13 MR. CAMPBELL: For personal injury.

14 THE COURT: For personal injury, right. And as Mr.
15 Sprayworse argues because you are suing folks who -- the
16 State of South Carolina and folks who are working for the
17 State of South Carolina your allegations fall under the Tort
18 Claims Act and you reference that in your Complaint, as
19 well. And under the Tort Claims Act, there's a long history
20 about this Tort Claims Act. Used to be that the state had
21 sovereign immunity and then that was taken away in a court
22 case and the legislature then passed the South Carolina Tort
23 Claims Act, which said no, people can sue the State, but
24 there are these parameters when you sue the State or
25 employees of the State within their capacity in a job on

1 behalf of the State. And under that act there is a two year
2 statute of limitations and that's his argument.

3 MR. CAMPBELL: I did initially file this, started
4 in February and I filed it -- I didn't have education in law
5 and I filed it in the South Carolina Supreme Court, twice
6 and it was dismissed before I finally figured out I had to
7 file in Richland County. So I did attempt to file within
8 the two year statute of limitations.

9 THE COURT: Do you have any evidence that you
10 served them with a Complaint prior to the two year statute
11 of limitations running?

12 MR. CAMPBELL: No, ma'am. I didn't bring it with
13 me. They sent me letters where they dismissed it on two
14 different occasions.

15 THE COURT: Well, the way the statute of
16 limitations works is that once that time period has passed
17 it is an absolute bar to a law suit. And I understand that
18 you are not an attorney, you're not trained in the law and
19 didn't know how to do it right, but the statute of
20 limitations is one of those things where it's an all or
21 nothing thing. People who aren't attorneys are treated just
22 like people who are attorneys and once that time period ends
23 it's an absolute bar to file any complaints. And here I
24 agree with Mr. Sprayworse, the statute of limitations has
25 run. We have the injury happening in March of 2013. This

1 complain wasn't filed until June of 2015, and so therefore
2 I'm going to grant the Motion for Summary Judgment.

3 Mr. Sprayworse, do you have a proposed order?

4 MR. SPRAYWORSE: I apologize, I do not, Your Honor.

5 THE COURT: That's okay. If you could send one to
6 my office based on the Statute of Limitations I would
7 appreciate that.

8 MR. SPRAYWORSE: Sure.

9 THE COURT: If you will send it via mail. Mr.
10 Campbell doesn't have the benefit of having email. So if
11 you'll send him a copy and me a copy as well.

12 MR. SPRAYWORSE: All right. Thank you, Your Honor.

13 THE COURT: All right. Thank you so much.

14 MR. CAMPBELL: May I readdress this if I do get
15 proof of where I filed it?

16 THE COURT: You may -- After I rule you have an
17 opportunity to ask me to reconsider my decision. There is a
18 time limit on asking for that reconsideration. I want to
19 say it's 10 day, 15 days.

20 MR. CAMPBELL: Thank you, Your Honor.

21 THE COURT: It's a Rule 59(e) Motion. If you look
22 at Rule 59 of the South Carolina Rules of Civil Procedure
23 you can file a motion for me to reconsider my decision.

24 MR. CAMPBELL: Thank you, Your Honor.

25 THE COURT: Thank you.

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(This proceeding was concluded.)

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C-E-R-T-I-F-I-C-A-T-E

I, THE UNDERSIGNED HILDA M. JORDAN, CVR-M, OFFICIAL COURT REPORTER FOR THE FIRST JUDICIAL CIRCUIT OF THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE, ACCURATE AND COMPLETE TRANSCRIPT OF RECORD OF THE MOTION HEARING IN THE CAPTIONED CAUSE, IN THE COURT OF COMMON PLEAS FOR RICHLAND COUNTY, SOUTH CAROLINA, ON THE 5 DAY OF NOVEMBER, 2015.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN, COUNSEL, NOR INTEREST IN ANY PARTY HERETO.


Hilda M. Jordan, CVR-M

July 11, 2016

IN THE STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

TERRY DOUGLAS CAMPBELL,)

Plaintiff)

V.)

S. C. DEPARTMENT OF CORRECTIONS;)

S.C.D.C. DIRECTOR BRYAN STIRLING;)

WARDEN BERNARD MCKIE; OFFICERS)

LT. MCLAUGHLIN; AUBREY POUNDS)

Defendants)

IN THE COURT OF COMMON PLEAS

Case No. 2015-cp-400-3381

PLAINTIFF'S NOTICE OF MOTION

AND MOTION TO ALTER OR AMEND

THE PLAINTIFF HEREBY MOVES THIS COURT FOR AN ORDER ALTERING OR AMENDING THE GRANTING OF SUMMARY JUDGMENT TO THE DEFENDANTS ON NOV. 5, 2015.

This motion is being filed pursuant to Rule 59(e), SCRPC, in response to the written order which was received by the Plaintiff on Nov. 13, 2015.

Summary Judgment was granted to the Defendants based on the Complaint having the Clerk's stamp which showed the date of June 8, 2015, when the Plaintiff's "trip and fall" occurred on March 4, 2013, asserting that the Plaintiff failed to file his Complaint within the two year statute of limitations found in S.C. Code ANN. § 15-78-110.

The Plaintiff contends that his Complaint was matter-of-factly filed within the two year statute of limitations set forth in S.C. Code ANN. § 15-78-110, based on the following:

1. The Plaintiff initially filed his Complaint naming these same Defendants and alleging these same facts in the South Carolina Supreme Court on 2-6-15 (See Exhibit A). This was dismissed on 4-8-15. The Plaintiff then filed a second Complaint, again naming these same Defendants and alleging these same facts in the South Carolina Supreme Court on 5-2-15, which was dismissed on 5-20-15 (See Exhibit B).

The Complaint filed on 6-8-15, in the Richland County Courts, relates back to those filed in the South Carolina Supreme Court pursuant to Rule 15(c), SCRPC.

2. The Plaintiff did not discover his loss until January 2014, and filed his Complaint on 6-8-15, seventeen months later which falls within the two year statute of limitations as set forth in § 15-78-110.

3. In complying with the South Carolina Tort Claims Act, the Plaintiff was forced to wait 623 days for the South Carolina Department of Corrections Inmate Grievance Branch to answer his grievance, in exhausting his administrative remedies, prior to filing his Complaint. The Plaintiff filed his grievance on 3-7-13, S.C.D.C. served their answer on 11-20-14 (See Exhibit C of Complaint).

A. S.C.D.C. Policy GA-01.12 Inmate Grievance System Responses: Each grievance will be answered in writing at each level of decision using the applicable S.C.D.C. Form (either 10-5 or 10-5 a) and will be served by the Inmate Grievance Coordinator to the inmate personally. Time limits at each step in the procedure are contained herein; but in most

instances, grievances will be processed from initiation to final disposition within 171 days except when the Branch Chief/ Designee, Inmate Grievance Branch, specifically agrees to a request for an extension. If an extension is granted, the Inmate Grievance Coordinator will notify the inmate in writing. (The extension is at the Step 1 level only, no extension is required at the Step II level). note: The maximum extension that may be given is 90 days. Under certain circumstances the grievance process may exceed 261 days.

B. The doctrine of equitable tolling should be applied here due to the Inmate Grievance Branch and Inmate Grievance Coordinator failed to answer the Plaintiff's grievance according to S.P.D.C. Policy GA-01.12 which states should be answered within 171 days, but instead took 623 days, or triple the time, which consumed 85% of the two year statute of limitations (See Exhibit C of Complaint).

PLAINTIFF'S RESPONSE TO THE DEFENDANT'S REMAINING GROUNDS FOR THEIR MOTION TO DISMISS

1. The Defendants argue that the Plaintiff failed to state facts sufficient to constitute a cause of action against the Defendants

Pursuant to the Eighth Amendment, the Defendants are responsible for providing a reasonably safe environment which will not cause the degeneration of an inmates physical or mental well being. The Plaintiff did state in his Complaint, that employees of the State of South Carolina (namely the Dept of Corrections) did violate Article I, Section 15. cruel or

Unusual punishment by an act of negligence when they ordered the Plaintiff to walk through an area while wearing full restraints although they knew there were hazards present in that area which posed a threat to anyone wearing leg shackles as proven by Officer Pounds warning at the entrance of the tunnel (See Complaint, para. 1, 2, 3, 4, 6, 7, 8, 9).

2. The Defendants argue that Defendants Stirling, McKie, McLaughlin and Pounds are immune from liability for tortious acts committed within the scope of his or her official duties and are entitled to absolute immunity. They further state that a plaintiff bringing an action under the Tort Claims Act is required to name "only the agency or political subdivision for which the employee was acting." § 15-78-70 (c), and therefore Defendants Stirling, McKie, McLaughlin and Pounds must be dismissed as a matter of law.

Section 15-78-70(b) Nothing in this chapter may be construed to give an employee of a governmental entity immunity from suit and liability if it is proved that the employee's conduct was not within the scope of his official duty or that it constituted actual fraud, actual malice, intent to harm, or a crime involving moral turpitude.

The S.C.D.C. Mission statement reads: The Department of Corrections protects the public by operating a safe, secure, humane and efficient prison system in accordance with statutory and constitutional mandates.

S.C.D.C.'s goals are said to be to protect the public, employees and offenders.

Defendants Stirling, Mckie, McLaughlin and Pounds conduct was not within the scope of their official duties when they defied the Dept. of Corrections mission and goals when they ordered the Plaintiff to do something when chances were very high that he would be harmed doing it, therefore Defendants Stirling, Mckie, McLaughlin and Pounds are responsible for their actions in their individual capacities.

3. The Defendants argue that the State of South Carolina is not a proper party to this suit pursuant to the provisions of S.C. Code Ann § 15-78-70(c).

On August 21, 2015, the Plaintiff sent an Amended Complaint along with a motion to amend pursuant to Rule 15, SCBCP, replying to the Defendants motion to dismiss, where he dismissed the state of South Carolina and named the South Carolina Dept. of Corrections.

4. The Defendants argue that the Summons and Complaint were never properly served upon the Defendants in accordance with the applicable rules of civil procedure.

The Plaintiff did serve his Summons and Complaint upon Defendants The South Carolina Dept. of Corrections care of Bryan Stirling, Director; Bernard Mckie; Lt. McLaughlin; Aubrey Pounds and Bryan Stirling pursuant to Rule 4(d)(5), SCBCP, by sending them Certified Mail, Return Receipt which were signed as received by Eugene Keith with the date of August 11, 2015. (See Exhibit C).

Conclusion

The granting of Summary Judgment to the Defendants on Nov. 5, 2015, should be overturned and this case should go to a jury trial as the Plaintiff has proven that he has diligently pursued this case and is entitled to redress. The Plaintiff has met the conditions set forth in the statute of limitations as noted in S.C. Code Ann. § 15-78-110. The Plaintiff has disproved every single ground which the Defendants based their motion to dismiss on. The Eighth Amendment of the United States as well as the South Carolina Constitution state that the Plaintiff has the right to be free from cruel and unusual punishment.

On March 4, 2013, the Plaintiff was subjected to cruel and unusual punishment when S.C.D.C. Officer Aubrey Pounds ordered him to walk while wearing full restraints, through an area where there was a very high probability that the Plaintiff would be injured. The Plaintiff was seriously injured and confined to a wheelchair for app. 6 weeks. The Plaintiff filed a grievance asking that the grating (which entangled his legs) be covered or either bring shackled inmates into the institution using another route.

The Warden and the Inmate Grievance Branch, both denied the grievance by stating that the grating conformed to building codes. This defense is simply outrageous as a swimming pool may meet building codes but that doesn't mean it would be safe for everyone, such as someone in full restraints. Upon discovering the true extent of his injuries and upon exhausting the grievance process,

the Plaintiff did file his Complaint. He is entitled to the same fair trial as anyone, as all stand equal before the law and are to be dealt with as equals in a court of justice.

The Plaintiff has a great likelihood of success on the merits. What the Defendants have done intentionally and deliberately put the Plaintiff in harms way which caused the Plaintiff very serious injuries. These injuries continue to cause the Plaintiff pain and hamper his daily activities.

For the foregoing reasons, the court should alter and amend the order granting summary judgment to the defendants and allow the Plaintiff his discovery and put this case on the jury trial docket.

Date Nov. 14, 2015

Respectfully Submitted,

Jenny D. Campbell

Terry D. Campbell 281286

Cotawba Pre-Release

1030 Milling Rd.

Rock Hill, S.C. 29370

EXHIBIT

A

The Supreme Court of South Carolina



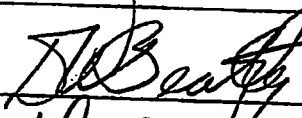
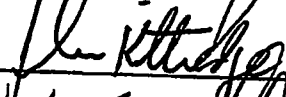
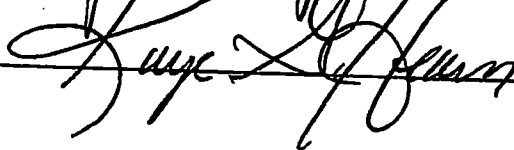
ORDER

The following matters are dismissed pursuant to *Key v. Currie*, 305 S.C. 115, 406 S.E.2d 356 (1991), because no extraordinary reason exists to entertain them in this Court's original jurisdiction:

1. *John Thomas Robinson v. State of South Carolina*. Motion for the Supreme Court's Determination Sua Sponte dated March 3, 2015. Appellate Case No. 2015-000541.
2. *Noel E. Gray, Jr.* Letter to the Clerk of Court dated February 26, 2015. Appellate Case No. 2015-000487.
3. *Marshall McElrath*. Letter to the Supreme Court received February 24, 2015. Appellate Case No. 2015-000489.
4. *John Willis Goldsmith*. Letter to the Chief Justice dated March 13, 2015. Appellate Case No. 2015-000556.
5. *Eugene King*. Letter to the Clerk of Court dated March 12, 2015. Appellate Case no. 2015-000557.
6. *Dexter A. Sheppard v. State of South Carolina*. Writ of Mandamus dated March 10, 2015. Appellate Case No. 2015-000530.
7. *Terry Douglas Campbell v. The State of South Carolina*. Summons and Complaint and Motion to Proceed *In Forma Pauperis* both dated February 6, 2015. Appellate Case No. 2015-000601.

8. *Nguyen Le v. State of South Carolina*. Petition for Emergency Writ of Mandamus dated March 9, 2015. Appellate Case No. 2015-000507.
9. *Andre Martin v. State of South Carolina*. Notice of Motion and Motion to Reopen Petitioner's Writ of Certiorari Petition dated March 9, 2015. Appellate Case No. 2015-000547.
10. *Boyce Lee Parker v. State of South Carolina*. Complaint and Motion to Reinstate Appeal dated March 20, 2015. Appellate Case No. 2015-000617.

IT IS SO ORDERED.

	_____	C.J.
	_____	J.
	_____	J.
	_____	J.
	_____	J.

Columbia, South Carolina

April 8, 2015

Columbia, South Carolina

April 8, 2015

CC:

Mr. John Thomas Robinson

Mr. Alan M. Wilson, Esquire

Mr. Noel E. Gray, Jr.

Mr. Andrew M. McElrath

Mr. John Willis Goldsmith

Mr. Eugene King

Mr. Alan M. Wilson, Esquire

Mr. Dexter A. Sheppard

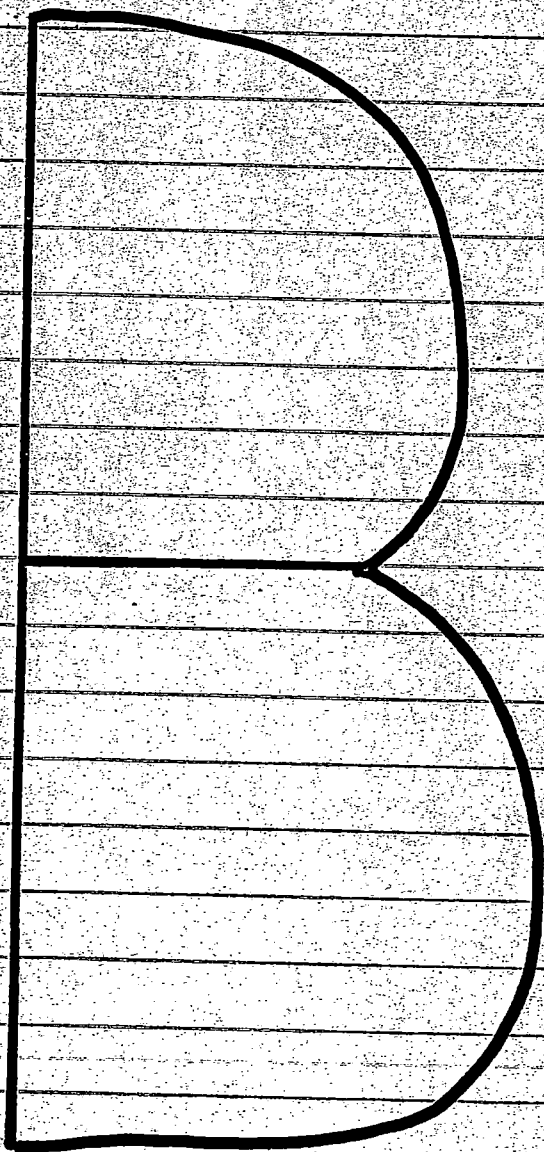
Mr. Terry Campbell

Mr. Nguyen Le

Mr. Andre Martin

Mr. Boyce Parker

EXHIBIT



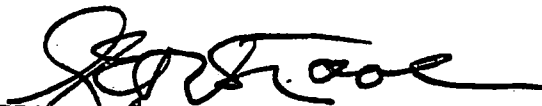
The Supreme Court of South Carolina

ORDER

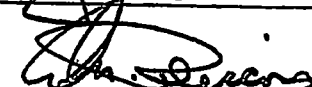
The following matters are dismissed pursuant to *Key v. Currie*, 305 S.C. 115, 406 S.E.2d 356 (1991), because no extraordinary reason exists to entertain them in this Court's original jurisdiction:

1. *Terry Douglas Campbell v. State of South Carolina*. Complaint dated May 2, 2015 and Motion for Leave to Proceed *In Forma Pauperis* dated May 5, 2015. Appellate Case No. 2015-000971.
2. *Ray Edward Chestnut*. Letter to the Chief Justice dated May 7, 2015. Appellate Case No. 2015-001027.
3. *Paul Brown v. State of South Carolina*. Motion for Discretionary Review dated April 22, 2015. Appellate Case No. 2015-000899.
4. *Robert Lee Askins v. South Carolina Dept. of Corrections, (S.C.)*. Motion for a Writ of Mandamus dated April 27, 2015. Appellate Case No. 2015-000948.
5. *Roy Albert Gee # 322872 v. Spartanburg, South Carolina*. Petition for Immediate Release dated April 23, 2015. Appellate Case No. 2015-000893.

IT IS SO ORDERED.



C.J.



J.

Terry Douglas Campbell J.
Raymond Edward Chestnut J.
Paul Brown J.

Columbia, South Carolina

May 20, 2015

CC:

Mr. Terry Douglas Campbell

Mr. Raymond Edward Chestnut

Mr. Paul Brown

Mr. Robert Lee Askins

Mr. Roy Albert Gee

EXHIBIT

C

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11 AUG 15

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1. Article Addressed to:

LT. McLaughlin
 SCDC
 4444 Broad River Rd.
 Columbia, SC 29202



9590 9403 0285 5155 5505 67

2. Article Number (Transfer from service label)

7015 0640 0007 2230 5448

PS Form 3811, April 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X Eugene Keith Agent
 Addressee
 B. Received by (Printed Name) C. Date of Delivery
 E. Keith

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Insured Mail
- Insured Mail Restricted Delivery (over \$500)
- Priority Mail Express
- Registered Mail™
- Registered Mail Restricted Delivery
- Return Receipt for Merchandise
- Signature Confirmation™
- Signature Confirmation Restricted Delivery

Domestic Return Receipt

SENDER: COMPLETE THIS SECTION

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1. Article Addressed to:

Warden Bernard McKie
 SCDC
 4444 Broad River Rd.
 Columbia, SC 29202



9590 9403 0285 5155 5505 50

2. Article Number (Transfer from service label)

7015 0640 0007 2230 5455

PS Form 3811, April 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X Eugene Keith Agent
 Addressee
 B. Received by (Printed Name) C. Date of Delivery
 E. Keith

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Insured Mail
- Insured Mail Restricted Delivery (over \$500)
- Priority Mail Express
- Registered Mail™
- Registered Mail Restricted Delivery
- Return Receipt for Merchandise
- Signature Confirmation™
- Signature Confirmation Restricted Delivery

Domestic Return Receipt

SENDER: COMPLETE THIS SECTION

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1. Article Addressed to:

SCDC to Bryan Stirling
 4444 Broad River Rd.
 Columbia, SC 29202



9590 9403 0285 5155 5505 36

2. Article Number (Transfer from service label)

7015 0640 0007 2230 5479

PS Form 3811, April 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X Eugene Keith Agent
 Addressee
 B. Received by (Printed Name) C. Date of Delivery
 E. Keith

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type

- Adult Signature
- Adult Signature Restricted Delivery
- Certified Mail
- Certified Mail Restricted Delivery
- Collect on Delivery
- Collect on Delivery Restricted Delivery
- Insured Mail
- Insured Mail Restricted Delivery (over \$500)
- Priority Mail Express
- Registered Mail™
- Registered Mail Restricted Delivery
- Return Receipt for Merchandise
- Signature Confirmation™
- Signature Confirmation Restricted Delivery

Domestic Return Receipt

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3.
- 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.

Article Addressed to:

SCDC to Bryan Stirling
 4444 Broad River Rd.
 Columbia, SC 29202

COMPLETE THIS SECTION ON DELIVERY

- A. Signature Agent
 X Eugene Keith Addressee
 B. Received by (Printed Name) C. Date of Delivery
 E. Keith
- D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type
- Adult Signature
 - Adult Signature Restricted Delivery
 - Certified Mail
 - Certified Mail Restricted Delivery
 - Collect on Delivery
 - Priority Mail Express
 - Registered Mail™
 - Registered Mail Restricted Delivery
 - Return Receipt for Merchandise

SENDER: COMPLETE THIS SECTION

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- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

SCDC
 Aubrey Bonds
 4444 Broad River Rd.
 Columbia, SC 29202

COMPLETE THIS SECTION ON DELIVERY

- A. Signature Agent
 X Eugene Keith Addressee
 B. Received by (Printed Name) C. Date of Delivery
 E. Keith
- D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type
- Adult Signature
 - Adult Signature Restricted Delivery
 - Certified Mail
 - Certified Mail Restricted Delivery
 - Collect on Delivery
 - Priority Mail Express
 - Registered Mail™
 - Registered Mail Restricted Delivery
 - Return Receipt for Merchandise

(20) (40)

9590 9403 0285 5155 5505 74

9590 9403 0285 5155 5505 43

IN THE STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

TERRY DOUGLAS CAMPBELL,)

Plaintiff)

v.)

S. C. DEPARTMENT OF CORRECTIONS;)

S.C.D.C. DIRECTOR BRYAN STIRLING;)

WARDEN BERNARD MCKIE; OFFICERS)

LT. MCLAUGHLIN; AUBREY POUNDS)

Defendants)

IN THE COURT OF COMMON PLEAS

Case No. 2015-cp-400-3381

DECLARATION IN SUPPORT OF

PLAINTIFF'S MOTION TO AMEND

OR ALTER JUDGMENT

Terry Campbell states:

1. I am the plaintiff in this case. I make this declaration in support of my motion to alter or amend.

2. The plaintiff did not discover the true extent of the injuries sustained in the fall at Kirkland until he went to work in January 2014.

3. In complying with the requirement to exhaust the grievance process the plaintiff was forced to wait 623 days for the Dept. of Corrections to answer when no extensions were filed and according to policy should have been answered in 171 days.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Nov. 14, 2015

Terry D. Campbell
Terry D. Campbell 281286
Catawba Pre-Release
1030 Milling Rd.
Rock Hill, S.C. 29370

Certificate of Counsel

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

Terry Campbell

Terry Campbell 281286

Catawba Pre-Release

Date: Feb. 20, 2017

1030 Milling Road

Rock Hill, S.C. 29730