

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

FORM 4

JUDGMENT IN A CIVIL CASE

RECEIVED

CASE NO. 2016- CP-46-2952

MAR 16 2017

Jeffrey Lynn Chronister

State of South Carolina;
 York County Public Defender's Office,
 The Sheriff of York County; Commission on
 Judicial Conduct

SC Court of Appeals

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: Robert D. Garfield, Esquire	Attorney for : <input type="checkbox"/> Plaintiff <input checked="" type="checkbox"/> Defendant
	or <input type="checkbox"/> 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. See Page 2 for additional information.
- 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

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 2017 FEB 22 AM 10:55
 DAVID HAMILTON
 CLERK OF COURT
 YORK COUNTY, SC

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 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 (List amount(s) below)
Defendants	Plaintiff	N/A
		\$
		\$
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

Handwritten initials/signature

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.
E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

M Kimbell
Special Circuit Court Judge

3063
Judge Code

2-20-2017
Date

For Clerk of Court Office Use Only

This judgment was entered on the 21st day of Feb, 2017 and a copy mailed first class or placed in the appropriate attorney's box on this 21st day of Feb, 2017 to attorneys of record or to parties (when appearing pro se) as follows:

Jeffrey Lynn Chronister #189827
Kirkland RBE, B-Li #39, 4344
Broad River Rd, Columbia, SC 29210
ATTORNEY(S) FOR THE PLAINTIFF(S)

Robert D. Garfield, PO Box 8568
Columbia, SC 29202

ATTORNEY(S) FOR THE DEFENDANT(S)
David Hampton (Fa)
CLERK OF COURT

Court Reporter:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

Handwritten "#2" in the center of a ruled area, with diagonal lines forming a large 'X' over the text.

STATE OF SOUTH CAROLINA)
)
COUNTY OF YORK)

IN THE COURT OF COMMON PLEAS

Case No. 2016-CP-46-2952

Jeffrey Lynn Chronister,)
)
Plaintiff,)
)
v.)

State of South Carolina, York County)
Public Defender's Office, the Sheriff of)
York County, and the Commission on)
Judicial Conduct,)
)
Defendants.)

ORDER

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MAR 16 2017

SC Court of Appeals

DAVID HAMILTON
C.C.C.P. & GS
YORK COUNTY, SC

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This matter came before the Court on January 19, 2017, upon a motion to dismiss on behalf of all Defendants pursuant to Rule 12(b)(6), SCRPC. Plaintiff appeared *pro se*, and the Defendants were represented by Robert D. Garfield. Based on the record presented, I make the following findings and conclusions.

BACKGROUND

Plaintiff was arrested by the York County Sheriff's Office on February 14, 1992, and charged with shooting and killing Gail Marie Chronister. The crime occurred at the Catawba Nuclear Station in York County. Plaintiff was charged with Murder and Unlawful Possession of a Firearm During the Commission of a Violent Crime.

On April 6, 1992, the York County Grand Jury returned indictments on these charges against Plaintiff. On September 21, 1992, he was tried and convicted by a jury in York County General Sessions Court on both charges. The trial judge sentenced Plaintiff to life in prison for murder, and five years for the firearms offense, all to run consecutively.

On October 11, 2016, Plaintiff filed a Complaint in a *pro se* capacity in this Court asserting causes of action and theories of liability for, *inter alia*, false imprisonment (arrest), malicious prosecution, malicious abuse of the judicial process, false trial testimony, and actual malice. Plaintiff additionally claims that Defendants violated his civil rights pursuant to the Constitutions of the United States and South Carolina. His civil action identifies four party Defendants: the State of South Carolina ("State"); the York County Public Defender's Office

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("YCPD"); the Sheriff of York County ("Sheriff"), and the Commission on Judicial Conduct ("Commission").¹ Plaintiff's Complaint contains thirty-one hand written pages and supporting documents as well as exhibits for a total of 109 pages. He alleges that various errors were committed by the Court and counsel during his September 1992 trial. In particular, Plaintiff takes issue with certain witness testimony, the photo line-up prepared by law enforcement, and the in-court identification process, all of which Plaintiff contends constituted an abuse of discretion.

On November 28, 2016, Defendants filed this motion to dismiss pursuant to Rule 12(b)(6), SCRCF, asserting numerous grounds for dismissal. Defendants argue that Plaintiff cannot recover on any theory under the facts as alleged, seek dismissal pursuant to Rule 12(b)(6).

STANDARD OF REVIEW

In ruling on a motion to dismiss, the Court must view the pleadings in the light most favorable to the nonmoving party. *Gray v. State Farm Auto Ins. Co.*, 327 S.C. 646, 651, 491 S.E.2d 272, 274-75 (Ct. App. 1997). A motion to dismiss must be granted if the facts and inferences reasonably deductible from them show that the plaintiff cannot prevail on any theory of the case. *Id.* In considering a motion to dismiss pursuant to Rule 12(b)(6), the Court must base its ruling solely upon the allegations set forth on the face of the plaintiff's complaint. *Doe v. Greenville County Sch. Dis.*, 375 S.C. 63, 66-67, 651 S.E.2d 305, 307 (2007). A 12(b)(6) motion will not be granted if the facts alleged and the inferences therefrom would entitle the plaintiff to any relief on any theory. *Carnival Corp. v. Historic Ansonborough Neighborhood Ass'n.*, 407 S.C. 67, 753 S.E.2d 846, 850 (2014).

DISCUSSION²

A. South Carolina Tort Claims Act.

The South Carolina Tort Claims Act ("Act") governs all tort claims against governmental entities in South Carolina, and is the exclusive remedy for civil actions against governmental entities in South Carolina. *See*, S.C. Code Ann. § 15-78-10, *et seq.* (1976, as amended); *see also*, *Washington v. Lexington County Jail*, 337 S.C. 400, 403, 523 S.E.2d 204, 206, (Ct. App. 1999). The Act waives sovereign immunity for the State, and the State's governmental entities. *See* S.C. Code Ann. §15-78-40. However, in S.C. Code Ann. §15-78-60, the Act lists thirty-seven

¹ This Court recognizes that neither the York County Public Defender's Office, nor the Commission on Judicial Conduct are legal entities amenable to suit and, therefore, are not proper party defendants in this action.

² In the interest of judicial economy, I address only the grounds that are dispositive of Defendants' motion.

exceptions to the general waiver of immunity. If an act or omission falls under one of these exceptions, then the governmental entity enjoys absolute immunity from suit.

The State contends that it should be afforded absolute sovereign immunity under the Act. It asserts S.C. Code Ann. §15-78-60(1), which provides that governmental entities are not liable for a loss resulting from the "judicial or quasi-judicial action or inaction."

In the present case, Plaintiff sues the State and contends that the presiding judge in his original trial engaged in acts or omissions that resulted in his not receiving a fair trial. Plaintiff claims damage as a result. On its face, Plaintiff's theory of liability regarding the State arises out of the trial judge's actions or inactions of a judicial nature.

In *Faile v. South Carolina Department of Juvenile Justice*, 350 S.C. 315, 566 S.E.2d 536 (2002), the Supreme Court held that judicial or quasi-judicial immunity is an absolute bar to litigation against judges and other court officials, except where the officials act in ". . . clear absence of all jurisdiction . . .", or the official commits a non-judicial act, or where the suit is for prospective, injunctive relief. 350 S.C. at 324, 566 S.E.2d at 540-41. The Court explained that ". . . determining whether an individual is entitled to absolute immunity requires the court to consider the function performed by the individual, rather than the individual's position." 350 S.C. at 324, 566 S.E.2d at 541, n.2. "[T]he Court looks to the nature and function of the act." 350 S.C. at 324, 566 S.E.2d at 541.

Judicial immunity ". . . is one of the basic common law tenets upon which the modern system of justice was built." *O'Laughlin v. Windham*, 330 S.C. 379, 384, 498 S.E.2d 689, 692 (Ct. App. 1998). Absolute judicial immunity ". . . is vital for the continuation of an independent judiciary and for the preservation of judicial integrity." *Id.* Our courts recognize three exceptions to judicial immunity, only one of which is at issue in this action, namely, that judicial immunity only extends to judicial acts. 330 S.C. at 385, 498 S.E.2d at 692, citing *Forrester v. White*, 484 U.S. 219 (1988). "In determining whether an act serves a judicial function, the Court must look to the nature and function of the act as opposed to the title of the person committing the act." *Plyler v. Burns*, 373 S.C. 637, 646, 647 S.E.2d 188, 193 (2007).

Here, Plaintiff's claim has as its basis judicial functions. He does not present any jurisdictional claims regarding the trial judge's actions. Even if Plaintiff had stated facts sufficient to constitute a cause of action against the State, this Defendant is absolutely immune from suit under the common law form of judicial immunity. Thus, Plaintiff's claims against the

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State are barred by the Act.

B. Statute of Limitations.

According to the Complaint and the Sixteenth Judicial Circuit Public Index,³ the following dates represent substantive activity in the events giving rise to Plaintiff's present action:

- February 14, 1992: Date of Plaintiff's arrest
- April 6, 1992: Date of indictments returned by Grand Jury
- September 21-22, 1992: Jury trial in York County General Sessions
- June 19, 2001: Filing of Post-Conviction Relief ("PCR") action
- May 31, 2002: Dismissal of PCR action
- February 9, 2006: Appeal of final order of dismissal,
- February 8, 2007: Remittitur Order entered from Supreme Court

The Tort Claims Act ". . . constitutes the exclusive remedy for any tort committed by an employee of a governmental entity." S.C. Code Ann. § 15-78-70(a). Under the Act, a state law claim must be brought within two years of the date of incident. *See*, S.C. Code Ann. § 15-78-100(a), § 15-78-110; *see also*, S.C. Code Ann. § 15-3-530, which sets forth a two year statute of limitations for false imprisonment state law actions.

Plaintiff filed his Complaint in this Court on October 11, 2016, alleging acts and/or omissions on the part of the Defendants, or their employees, primarily taking place during the arrest and prosecution stage of his criminal charges. Plaintiff was convicted twenty-four years prior to filing this action. Even assuming, *arguendo*, that Plaintiff's present allegations stem from any alleged culpable acts occurring during the years after his conviction and pursuit of post-conviction relief, on February 8, 2007, a Remittitur was issued by the South Carolina Supreme Court. Thus, more than nine years have transpired between the entry of the Supreme Court order, which forever ended Plaintiff's criminal and administrative appeal proceedings, and Plaintiff's filing of this action.⁴

³ I take judicial notice of the pertinent dates of Plaintiff's trial and post-conviction relief activity. Under Rule 201, SCRE, a trial court may take judicial notice of facts on its own accord and must take judicial notice of facts ". . . if requested by a party and supplied with the necessary information." Rule 201(d), SCRE. A fact is appropriate for judicial notice if it is ". . . not subject to reasonable dispute in that it is either (1) generally known within the territorial jurisdiction of the trial court or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned." Rule 201(b), SCRE. *See also, Doe v. Bishop of Charleston*, 407 S.C. 128, 134 n. 2, 754 S.E.2d 494, 497 n. 2 (2014) (recognizing a circuit court may take judicial notice of previously entered, related court orders and consider them when ruling on a Rule 12(b)(6), SCRCPP, motion to dismiss).

⁴ At the hearing on the instant motion, Plaintiff stipulated that at the time of the filing of his PCR action in June 2001, he had possessed full knowledge of the allegations giving rise to the present civil action.



Plaintiff has not brought this action within two years of any relevant date asserted in his Complaint. Thus, Plaintiff's claims are time barred as a matter of law, and the same must be dismissed with prejudice.

C. Private Right of Action.

With respect to Plaintiff's claim that Defendants violated his civil rights as provided by the South Carolina Constitution, Defendants contend that Plaintiff fails to state a cause of action, since there is not a private right of action in this state for such a claim. Defendants argue that there is no statutory scheme in South Carolina that enables a party to bring a private action for civil damages under the state constitution. I agree. No viable private cause of action exists, because the state Constitution does not provide for a cause of action for civil rights violations, and the legislature has not enacted a statute enabling this type of action.


For these reasons, Plaintiff's action fails under Rule 12(b)(6) because he cannot recover against Defendants.

CONCLUSION

Based upon the findings and conclusions herein, Defendants' motion to dismiss is granted, and this action is dismissed with prejudice in its entirety.

AND IT IS SO ORDERED.

February 20, 2017


S. Jackson Kimball
Special Circuit Court Judge
York County

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