

STATE OF SOUTH CAROLINA
COUNTY OF HORRY

) IN THE COURT OF COMMON PLEAS
) FIFTEENTH JUDICIAL CIRCUIT
) C/A No. 2017-CP-26-0489

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JUL 03 2017

SC Court of Appeals

Richard B. Lamb,
Plaintiff,

vs.

State of South Carolina DMV,
Office of General Counsel,
Defendant.

ORDER GRANTING
DEFENDANT'S MOTION
FOR SUMMARY JUDGMENT

This matter is before me upon Motion of the Defendant requesting the court grant summary judgment as to all of the Plaintiff's claims. A hearing on this Motion was held on May 17, 2017. Present at the hearing were the Plaintiff, acting *pro se*, and Douglas Charles Baxter, Esquire on behalf of the Defendant.

FACTUAL BACKGROUND

This case arises around a suspended South Carolina driver's license from the year 2008. In 2008, the Plaintiff was the record owner of a 2003 Dodge vehicle, tag number 2897DB and the Defendant, South Carolina Department of Motor Vehicles ("SCDMV") received notification from Progressive Direct Insurance that the vehicle may be uninsured. On November 25, 2008, the SCDMV sent a letter to the Plaintiff, the owner of record of the vehicle, stating that the vehicle may be uninsured. The notice informed the Plaintiff that he was required to respond by providing proof of insurance for the vehicle, providing proof that the vehicle had been sold/traded, or turn in the vehicle license plate tag. Due to a computer glitch, the letter misstated that the Plaintiff must respond by December 17, 2008 rather than December 30, 2008, which was

twenty working days. On January 14, 2009, the Plaintiff turned his license plate tag in to the SCDMV.

FINDINGS

The South Carolina Tort Claims Act (§15-78-10 et. seq.) governs all tort claims against governmental entities and is the exclusive civil remedy available in an action against a governmental entity or its employees. Flateau v. Harrelson, 384 S.E.2d 413, 416 (Ct. App. 2003). The South Carolina Tort Claims Act provides exceptions to the waiver of immunity and the exceptions limit the liability of governmental entities. Jinks v. Richland Cty., 585 S.E.2d 281, 283 (2003). Section 15-78-60 of the Code of Laws of South Carolina, as amended, provides in Subsection (12), that a governmental entity is not liable for a loss resulting from:

“licensing powers or functions including, but not limited to, the issuance, denial, suspension, renewal, or revocation of or failure or refusal to issue, deny, suspend, renew, or revoke any permit, license, certificate, approval, registration, order, or similar authority except when the power or function is exercised in a grossly negligent manner”.

There is no evidence of gross negligence and the Defendant is immune from liability for suspending the Plaintiff’s driver’s license.

Additionally, under the South Carolina Tort Claims Act (§15-78-10 et. seq.), generally, an action must be commenced within two years. S.C. Code Ann. §15-78-110 provides:

“Except as provided for in Section 15-3-40, any action brought pursuant to this chapter is forever barred unless an action is commenced within two years after the date the loss was or should have been discovered; provided, that if the claimant first filed a claim pursuant to this chapter then the action for damages based upon the same occurrence is forever barred unless the action is commenced within three years of the date the loss was or should have been discovered.”

Plaintiff surrendered his vehicle license plate tag on January 14, 2009, and approximately eight years later, on January 26, 2017, Plaintiff brought this action. The Plaintiff was required to bring an action within two years from the date he became aware that his license was suspended,



Horry Common Pleas

Case Caption: Richard B Lamb VS DMV State of South Carolina , defendant, et al
Case Number: 2017CP2600489
Type: Order/Summary Judgment

Presiding Judge

s/Benjamin H. Culbertson, Judge Code 2148

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SC Court of Appeals

THE HONORABLE JENNY ABBOTT KITCHINGS
CLERK SOUTH CAROLINA COURT OF APPEALS

RE: RICHARD B. LAMB V STATE OF SOUTH CAROLINA DMV
APPELLATE CASE NO. 2017-001381

DEAR MS KITCHINGS,

PLEASE FIND THE ELECTRONICALLY SIGNED
COURT ORDER FROM THE LOWER COURT THAT
YOU REQUESTED. ALSO ATTACHED IS THE ORDER
REQUEST LETTER TO THE LOWER COURT REPORTER
REQUESTING COPIES OF THE LOWER COURT HEARING
TRANSCRIPT.

SINCERELY,

Richard B. Lamb

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