

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE COURT OF COMMON PLEAS
Aiken County

Doyet A. Early, III, Circuit Court Judge

Appellate Case No. 2016-002275

RECEIVED

MAY 31 2017

SC Court of Appeals

Carlton E. Cantrell,

.....Appellant

v.

Aiken County, Aiken County Animal Control / Code
Enforcement Director Bobby Arthurs, Aiken County
Animal Control / Code Enforcement Officer Ron Cooper,
Judge Donna L. Williamson

.....Respondents

RECORD ON APPEAL

Daniel C. Plyler
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Carlton E. Cantrell, Appellant
223 Muddy Branch Road
Aiken South Carolina 29805
(803) 215-4747

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STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS

COUNTY OF: AIKEN) SUMMONS

Carlton E. Cantrell, Plaintiff,

vs.

FILE NO.

Aiken County,

Aiken County Animal Control/Code Enforcement Director Bobby Arthurs,
Aiken County Animal Control/Code Enforcement Officer Ron Cooper,
Judge Donna L Williamson, Defendants

On July 2 2015, at 8 a.m. I Carlton E. Cantrell left to go get supplies in Batesburg, Ryan Gunter came over and was watching my house approximately 100 feet from the front gate. Junior Enlow was coming over at 9 a.m. but I decided that I didn't need him because Ryan said that he could stay till 12 a.m. I tried for a whole hour to call Junior but he wouldn't answer his phone.

At 9 a.m. Junior Enlow shows up at the front gate and Ryan Gunter calls me and says theirs a white car setting at your gate and I told him it was Junior then I get a call from Junior Enlow and he says that Ryan is watching your house. I told him that I had been calling him for the last hour to tell him not to comeover because I didn't need you today and that I was already on my way back home and Junior says that ill wait at the gate for you.

Approximately 15 minutes later, Ryan Gunter calls me and says that three animal Control trucks are sitting in the road in front of your drive they were parked behind Juniors car and I told Ryan that I would be there in about 20 minutes.

When I arrived the Animal Control/code enforcement trucks were sitting in the middle of the road and the Officers were standing around with their cameras but there were no dogs around so I parked on the other side of the road on my property and got out of my vehicle and asked Officer Cooper what was going on, and Officer Cooper said that they were responding to a complaint from my neighbour about dogs in her yard then seven dogs came down to be with me and officer Cooper started writing a citation for dogs at large and he asked me how many dogs are in the road while the other Officer was taking pictures. Then he proceeded to write me another citation for failure to vaccinate, I asked Officer Cooper what about my neighbours complaint and he said that were not concerned about that right now were more concerned about dogs in the road.

I asked Officer Cooper about my dogs crossing from one side of the property to the other since the road goes through my property and he said so long as you're with the dogs that it was all right. Then Mr. Cooper handed me the citations and told me that I had better not come to court without these dogs rabby shots. He also told me that they may come back and write me up again before the court day.

After Officer Cooper and the other two Officers left Junior Enlow told me that they are going to lock you up and take everything you own away from you.

On the day of court July 23 2015 in Monetta I requested a jury trial and we picked Jurors I used up all my strikes on the 6 primary and officer Cooper picked the 6 secondary. I requested filled out a subpoena for Junior Enlow and my neighbour Marie Fox for the trial which was scheduled on August 26 2015.

On the way out to my vehicle officer Colin Ashe approached me and asked me how many dogs did I have and told me that I had better have at least half of them vaccinated within 5 days or he was going to write me another citation. Which he never did show up at my property.

On the day of court August 26 2015 I had a friend name Don watch my house and Ryan Gunter drove me to Wagner Court house the Trial was scheduled for 9:30 a.m. I was going to defend myself without a lawyer.

Just before the trial began I herd officer Cooper tell Officer Colin Ashe that they had another jury trial scheduled within an hour.

The Judge Williamson came into the court room and said that we should be able to do this whole trial from start to finish within 35 minutes. Judge Williamson had dismissed 5 of the primaries that I had picked and replaced them with the other jurors that Cooper had picked.

Officer Cooper took the stand and said that they were going down Muddy Branch road and seen dogs in the road and stoped and waited for the owner and issued him citations for dogs at large and failure to vaccinate. I told Officer Cooper that you said that the reason for stoping was a complaint from my neighbour and he said that this has nothing to do with this and Judge Williamson said the same thing.

Officer Cooper showed the Jurors pictures of the dogs in the road and then handed them to me for the first time and every picture taken was of me with dogs in the road and I told the jurors that Officer Cooper had said that my dogs could be in the road so long as I was with them and the pictures depicted exactly that.

Junior Enlow took the stand and had changed his story from what he had told me and he said that the dogs were in the road the whole time.

My neighbour which I had supioned was not thair so I told the Judge that this trial must be rescheduled because one of my witnesses was not thair and Judge Williamson said all right with an angry voice and left the courtroom and came back and said that she was on her way and would be thair in 45 min.

Junior Enlow requested to leave because he had scheduled a trip to montana, I told the Judge, Williamson that I might want to ask him some more questions on the stand but she released him and he left.

Judge Williamson said that lets continue on with this trial while we are waiting for Marie Fox. Since Junior Enlow had lied about the dogs being in the road I said I have another witness Ryan Gunter and that he was in his truck in the parking lot so Judge Williamson sent Officer Cooper to get him.

Ryne Gunter took the stand and told that the dogs were with him the whole time and they didn't go down to the road until I got out of my vehicle and was talking with animal control Officer Cooper, and that there were no dogs in the road the whole time that I was gone.

Marie Fox took the stand and I asked her if she had been feeding these dogs and she said that she had been feeding between 10 to 15 dogs and that they were staying in her yard and Officer Cooper said to Judge Williamson that this has nothing to do with this and the judge agreed and I said that this has everything to do with this because Judge Gibson Fallaw told me if you feed a dog that dog belongs to you and I said that she was reeding these dogs, and that Officer Cooper said she called the complaint on me, and Marie Fox said that she had never called in a complaint.

The jurors that Officer Cooper had picked found me guilty, and Judge Williamson fined me $478.99 \times 2 = 957.98$ and she said if you dont pay it today I will lock up for 30 days and had already called in an arresring officer because they knew that I didn't have that kind of money in my account but First Citizens honored the request.

6

Why did Junior Enlow refuse to answer his phone for an hour and then call me and tell me that Ryan Gunter is at your house. and after I told him that I didn't need him why did he say that he would wait on me anyway.

Why did Officer Cooper and the two other officers talk to Junior for 20 minutes before I showed up and there weren't any dogs in the road the whole time according to Ryan Gunter.

Why did Junior Enlow tell me that Officer Cooper and them were going to lock you up and take everything that you own away from me, after they left.

Why did Junior Enlow lie about the dogs being in the road the whole time when Ryan Gunter said the opposite.

Information; Junior Enlow is related to Bobby Arthurs in that his now deceased son was married to Bobby Arthurs sister and she bore three of his grand sons which one is now deceased.

I turned in a report to the FBI on Junior Enlow and his grandson Enn Enlow because the evidence that I found razor blades on the ground where their vehicle was parked and dogs bleeding out the ass and spitting up razor blades after they left my house and I called Junior right after they left and asked was Enn feeding my dogs razor blades and Junior said that I won't bring him over anymore. I believe that Bobby Arthurs was behind this, to make my dogs sick so that they could write me citations for sick animals.

Officer Cooper and the other two Officers stopped in front of my house deliberately while I was gone as to block my drive so that when I arrived home I couldn't go onto my property this was an attempt to get dogs into the road so that they could write citations on me.

When I arrived back home I had to park on the other side of my property and walk across the road there wasn't any dogs around so I asked Officer Cooper what was going on and he said that my neighbour pointing towards Marie Fox house had filed a complaint about dogs in her yard and then the dogs that were with Ryan Gunter came running down to meet with me. and Officer Cooper started writing me citations.

I asked Officer Cooper aren't you supposed to write warnings first and the other Officer said in your case we don't.

I was never told that I had to vaccinate my dogs I have had two dog bite incidents in the past nine years and the department of health would come out and quarantine the dog for ten days and tell me to get it vaccinated for rabies and then he would come back and get the paper work and I asked him are rabie shots required and he said only in bite cases. How could I be given a citation for failure to vaccinate when no one told me so. I should have been given a warning and time to get the shots.

I asked Officer Cooper how are the dogs supposed to cross from one side of the road to the other since the road goes through my property and he said so long as you accompany them then it's alright and that's just what their pictures depict.

Why did Officer Colin Ashe threaten to write me up if I didn't get half of my dogs rabie shots within five days when I had just got through picking jurors for a trial scheduled for August 26 2015.

Why did I have to spend the whole time between the Jury strike and the trial picking food out of the road in front of my house from passing vehicles and then they would drive back by with their cellphone cameras pressed against the windshield.

Why did Aiken County stop their vehicles in front of my house several times and sit their for a while then move on.

It appears that Aiken County is trying to get dogs in the road because they lied about dogs in the road from the beginning.

Why were their two trials scheduled that morning of August 26 2015, an hour after my trial began.

Why did Judge Williamson state that we should be able to do this whole trial from start to finish in about 35 min.

Why did Judge Williamson let five of the primary jurors be excused the ones that I had picked with my strikes and fill them with the ones that Officer Cooper had picked with his strikes.

Why wasn't My neighbour Marie Fox issued the subpoena that I had filled out and finally I had to demand that my witness be brought in or this trial rescheduled.

Why did Officer Cooper tell the jurors that they were riding down Muddy Branch Road and seen dogs in the road and stoped and waited on the owner and issued him citations, and when I said that officer Cooper told me that they were responding to a complaint from my neighbour officer Cooper said that that had nothing to do with this and so did Judge Williamson.

Why did Officer Cooper and Judge Williamson say that Marie Fox testimony had nothing to do with this when she admitted to feeding these dogs and they were staying in her yard and she said that she never called animal control.

Information; This is the second time that Marie Fox has done this in the last three years the last time Officer Cooper came to my house about my neighbour complaining about the dogs that she was feeding and I told Officer Cooper that Judge Fellow told me that if you feed a dog it belongs to you and officer Cooper left and then the dogs dissapeared but came back several weeks later.

It Appears that animal control is also working with my neighbour Marie Fox in having her feed the dogs to use has a stepping stone to attack me.

Why was I fined a total of 957.98 dollars for these false charges that were brought up against me, if rabie shots are required then why didn't the tell me in a nice way or issue a warning and I could have used this money to vaccinate them with.

Judge Williamson had an arresting Officer come in and told me if I didn't pay this fine today she was going to lock me up for 30 days. I didn't have enough in my account but First Citizens honored the request.

After I got home I thought over the trial and decided to call Judge Williamsons Office and request a copy of the transcript and the clerk said that we dont do transcripts anymore and I herd her ask Judge Williamson and then she hung the phone up.

CONCLUSION

Animal Control/Code enforcement had my neighbour Marie Fox to feed these dogs so that they would stay in her yard so that this could be used as an excuse to stop in front of my house and Junior Enlow was used to block my gate as an attempt to get dogs into the road in order to write me citations just like Junior Enlow said so they can lock you up and take everything away from you. If I hadn't turned in a report to the FBI a day before the Court they were going to lock me up they never expected it to go as far as a Jury Trial, so they rigged the Jurors by excusing five of the primary jurors that I had picked and replacing them with five of the jurors that Officer Cooper picked, and everything I said in the Court Room Officer Cooper said that this has nothing to do with this and Judge Williamson agreed with Officer Cooper on everything. This is the same as the attack on me back in 2005 when Bobby Arthurs made false statements and Judge Terry Carter signed warrants and took my animals and did terrible things to them and I never got all of them back. My veterinarian Lisa Handy said that they had broke every rule their must first always be a veterinarian involved and their wasn't and secondly their must be given warning first and time to correct any problems which nither was done. This Civil Suit is still alive and in the Court of Appeals. The primary reason for these attacks is because Aiken County is bringing in Millions of dollars of cocaine by Aircraft all around my dwelling place and because I am not a team player like my neighbours they are trying to get rid of me any way they can.

By copy of this Affidavit I hereby indicate my intention to sue Aiken County, and the other named defendants for all damages brought on by these false charges, for damages I suffered personally from this attack as well as mistreatments and other such financial awards deemed appropriate by the Court.



Carlton E. Cantrell. Pro. Se
223 muddy Branch Road
Aiken SC 29805
803-215-4141
Plaintiff/Appellant

September 13 2015

County of Aiken
UNIFORM SUMMONS TICKET

COUNTY OF	AIKEN	VERSUS
FIRST NAME	MIDDLE NAME	LAST NAME
Carlton	Eugene	Cantrell
STREET AND NO.	STATE	
223 Muddy Branch Rd Aiken	SC	
STATE LICENSED	DRIVER'S LICENSE NO.	DR. LIC. CLASS
SC	003062686	D
VEH. LIC. NO.	STATE	MAKE OF VEH. YEAR
		COMM. VEH. AUTO TRUCK MOVE
		HAZ. MT. MOPED MTRAIL OTHER

YOU ARE SUMMONED TO APPEAR BEFORE THE TRIAL OFFICER

NAME OF TRIAL OFFICER	STREET AND NO.
Williamson	5697 Columbia Hwy N
DATE OF TRIAL	TIME OF TRIAL
7/23/15	1100
CITY	STATE
Monetta SC	29105
VIOLATION - COURT APPEARANCE REQUIRED	YES NO
Failure to Vaccinate	4-64
OWNER OF VEHICLE/ANIMAL	DATE OF ARREST
w/m	Feb 4-8-57
ADDRESS OF OWNER	DATE OF VIOLATION
Hgt 5'11" wgt 175 lbs	7/2/15
NAME OF ARRESTING OFFICER	RANK
Cropper J.C.	CCU

- 101 Domestic at Large
- 102 Bite
- 103 Dangerous Animal
- 104 Nuisance
- 107 Cruelty
- 108 Abandonment
- 110 Damaging Property
- 112 Unvaccinated Animal
- 113 Animal Confined In Vehicle
- 114 Interference with Animal Control Officer
- 115 Unsanitary Conditions
- 200 Littering
- 201 Misuse of Container
- 202 Scavenging
- 203 Fail to Display Sticker
- 204 Fail to Cover
- 205 Commercial Misuse of Recycling Center
- 206 Projecting Loads
- 207 Attempting to Avoid Users Fees
- 208 Damaging Hwy
- 209 Spilling Load
- 210 Illegal Dumping out-of-County Waste
- 211 Unlawful Burning

TYPE OF ANIMAL	ON TICKET
Dogs	
D A Y	S M T W T F S
1 2 3 4	5 6 7
TIME OF VIOLATION	WEATHER
9:35 AM	Clear
LOCATION OF VIOLATION	
225 Muddy Branch Rd	
VIOLATION	N E S W
112	1 2 3 4
OFFENSE CODE	
112	

SEE IMPORTANT INFORMATION ON THE REVERSE SIDE OF THIS TICKET

ACS No. 03270

AMT. BOND REQUEST: **262.50**

Blue - Defendants White - Audit Yellow - Officer Pink - Court

County of Aiken
UNIFORM SUMMONS TICKET

COUNTY OF	AIKEN	VERSUS
FIRST NAME	MIDDLE NAME	LAST NAME
Carlton	Eugene	Cantrell
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SC	003062686	D
VEH. LIC. NO.	STATE	MAKE OF VEH. YEAR
		COMM. VEH. AUTO TRUCK MOVE
		HAZ. MT. MOPED MTRAIL OTHER

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- 206 Projecting Loads
- 207 Attempting to Avoid Users Fees
- 208 Damaging Hwy
- 209 Spilling Load
- 210 Illegal Dumping out-of-County Waste
- 211 Unlawful Burning

TYPE OF ANIMAL	
Dogs x7	
D A Y	S M T W T F S
1 2 3 4	5 6 7
TIME OF VIOLATION	WEATHER
9:35 AM	Clear
LOCATION OF VIOLATION	
Muddy Branch Rd	
VIOLATION	N E S W
101	1 2 3 4
OFFENSE CODE	
101	

SEE IMPORTANT INFORMATION ON THE REVERSE SIDE OF THIS TICKET

ACS No. 03270

AMT. BOND REQUEST: **262.50**

Blue - Defendants White - Audit Yellow - Officer Pink - Court

Wagener-Salley Summary Court

Judge : Donna Hutto Williamson

108 Main Street N

Wagener, SC 29164

(803) 564-5989

Received From: Cantrell, Carlton Eugene
 223 Muddy Branch Rd
 Aiken, SC 29805-8366

Date: 8/26/2015
 Receipt #: 5395
 Clerk: c02tkey

Paying for: Self

Transaction Type: Payment

Reference #:

Payment Type: Credit Card \$470.00

Comment:

Convenience Fee \$7.99

SC.gov Portal Fee \$1.00

Total Paid: \$478.99

Case #	Caption	Previous Balance	Amount Paid	Balance Due
ACS03270	The State of South Carolina VS Carlton Eugene Cantrell	\$470.00	\$470.00	\$0.00

Total Cases: 1

	\$470.00	\$470.00	\$0.00
	Convenience Fee:	\$7.99	
	SC.gov Portal Fee:	\$1.00	
	Total Paid:	\$478.99	

Wagener-Salley Summary Court

Judge : Donna Hutto Williamson
 108 Main Street N
 Wagener, SC 29164
 (803) 564-5989

Received From: Cantrell, Carlton Eugene
 223 Muddy Branch Rd
 Aiken, SC 29805-8366

Date: 8/26/2015
 Receipt #: 5395
 Clerk: c02tkey

Paying for: Self
 Transaction Type: Payment
 Payment Type: Credit Card \$470.00
 Convenience Fee \$7.99
 SC.gov Portal Fee \$1.00
 Total Paid: \$478.99

Reference #:
 Comment:

Case #	Caption	Previous Balance	Amount Paid	Balance Du
ACS03270	The State of South Carolina VS Carlton Eugene Cantrell	\$470.00	\$470.00	\$0.00

Total Cases: 1

	\$470.00	\$470.00	\$0.00
Convenience Fee:		\$7.99	
SC.gov Portal Fee:		\$1.00	
Total Paid:		\$478.99	

STATE OF SOUTH CAROLINA

) IN THE COURT OF COMMON PLEAS

COUNTY OF AIKEN

) Civil Action Number: 2015-CP-02-02241

Carlton E. Cantrell,

Plaintiff,

) NOTICE OF MOTION AND MOTION
) FOR JUDGMENT ON THE
) PLEADINGS OR, IN THE
) ALTERNATIVE, SUMMARY
) JUDGMENT ON BEHALF OF THE
) DEFENDANTS

v.

Aiken County, Aiken County Animal
Control/Code Enforcement Director Bobby
Arthurs, Aiken County Animal Control/Code
Enforcement Officer Ron Cooper, Judge
Donna L. Williamson,

Defendants.

TO: CARLTON E. CANTRELL, *PRO SE* PLAINTIFF:

YOU WILL PLEASE TAKE NOTICE that the undersigned attorney for the Defendants will move before the Presiding Judge of the Second Judicial Circuit at the Aiken County Courthouse, Aiken, South Carolina ten (10) days after the service hereof at 10 a.m. or as soon thereafter as counsel may be heard or at such time and place as may be set by the Court for an Order, pursuant to Rules 12 and 56 of the South Carolina Rules of Civil Procedure, granting judgment on the pleadings or summary judgment in favor of the above named Defendants on the following grounds:

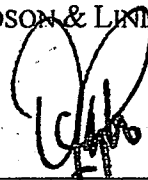
1. The Plaintiff's Complaint fails to allege facts sufficient to state a cause of action upon which relief can be granted;
2. The Defendants are immune from suit pursuant to various provisions of the South Carolina Tort Claims Act, S.C. Code Ann. §§ 15-78-10, *et seq.*, including but not limited to, §§ 15-78-60(1), (2), (3), (4), (5), (7), and (23);

1
17

3. The Defendants Donna L. Williamson, Bobby Arthurs, and Ron Cooper are entitled to absolute employee immunity pursuant to the South Carolina Tort Claims Act, § 15-78-70(a);
4. The Defendants Donna L. Williamson, Bobby Arthurs, and Ron Cooper are not proper parties to this suit pursuant to the South Carolina Tort Claims Act, § 15-8-70(c);
5. The Defendant Donna L. Williamson is immune from suit pursuant to common law judicial immunity; and
6. The Plaintiff's action is barred by the preclusion Doctrine of Collateral Estoppel.

This Motion is based upon the pleadings, applicable law, rules of civil procedure, and other such matters that may be properly presented to the Court at the time of the hearing.

DAVIDSON & LINDEMANN, P.A.



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Counsel for Defendants

Columbia, South Carolina

September 21, 2016

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

Carlton E. Cantrell,

Plaintiff,

v.

Aiken County, Aiken County Animal Control/Code Enforcement Director Bobby Arthurs, Aiken County Animal Control/Code Enforcement Officer Ron Cooper, Judge Donna L. Williamson,

Defendants.

IN THE COURT OF COMMON PLEAS

Civil Action Number: 2015-CP-02-02241

ORDER GRANTING DEFENDANTS' MOTION FOR JUDGMENT ON THE PLEADINGS, OR IN THE ALTERNATIVE, SUMMARY JUDGMENT

FILED

11-3-2016

1:00 SP

Shadell Park Deputy Clerk

This matter came before the Court on October 10, 2016 upon motion of the Defendants.

Specifically, the Defendants filed a Motion for Judgment on the Pleadings, or, in the alternative, for Summary Judgment. At the hearing Defendants were represented by Daniel C. Plyler, Esquire and Jasmine Wyman, Esquire of Davidson & Lindemann, PA. The Plaintiff appeared pro se.

Having considered the oral arguments presented and the entirety of the record before this Court, including all filings made by all parties, the Court finds that summary judgment must be granted to the Defendants, as is set out in detail herein, and that the pending motion must be, and hereby is, GRANTED.

Plaintiff filed this matter on, or about September 22, 2015. In his Complaint Plaintiff alleges he was wrongfully convicted on two Animal Control citations. The two citations in question were issued to the Plaintiff on, or about, July 2, 2015 by Aiken County Animal Control.

Specifically, Plaintiff was cited for Domestic Animals at Large and Failure to Vaccinate

STATE OF SOUTH CAROLINA COUNTY OF AIKEN I, Liz Goddard, Clerk of Court of Common Pleas and General Sessions for Aiken County, South Carolina do hereby certify that the foregoing constitutes a true and correct copy of the original documents which have been filed in my office this 3rd day of Nov 2016 Shadell Park

Handwritten signature and initials


domestic animals. Plaintiff requested a jury trial on those citations, and on August 26, 2015 the Plaintiff was tried, by jury, in the Monetta Summary Court. Aiken County Magistrate Judge Donna Williamson presided over the trial. At the close of the trial, the jury convicted Plaintiff on both citations.

Plaintiff did not appeal the convictions. Instead Plaintiff filed the above-captioned lawsuit, alleging that he should not have been convicted. Defendants subsequently moved for judgment on the pleadings, or, in the alternative, for summary judgment.

STANDARD

The Defendants' motion is for judgment on the pleadings, or, in the alternative, for summary judgment. "Judgment upon the pleadings is a drastic procedure but it will be granted in proper cases." *Wooten v. Standard. Life & Cas. Ins. Co.*, 239 S.C. 243, 248, 122 S.E.2d 637, 638 (1961). "It is appropriate, where the pleading is fatally deficient in substance, that is where the complaint fails to state a good cause of action in favor of the plaintiff and against the defendant." *Id.*

Summary judgment is appropriate when it is clear there is no genuine issue of material fact, and the moving party is entitled to judgment as a matter of law. *Baird v. Charleston County*, 333 S.C. 519, 511 S.E.2d 69 (1999); Rule 56(c), SCRPC. In ruling on a motion for summary judgment, the Court considers the pleadings, depositions, interrogatory answers, admissions, and affidavits in determining whether there is a genuine issue of fact for trial. *Thomas v. Waters*, 315 S.C. 524, 445 S.E.2d 659 (Ct. App. 1994). In determining whether any triable issue of fact exists, as will preclude summary judgment, the evidence and all inferences which can be reasonably drawn therefrom must be viewed in the light most favorable to the nonmoving party. *Pye v. Aycock*, 325 S.C. 426, 480 S.E.2d 455 (Ct.App. 1997).



“Although summary judgment is a drastic remedy which should be cautiously invoked, where a verdict is not reasonably possible under the facts presented, summary judgment is proper.” *Evans v. Stewart*, 370 S.C. 522, 526, 636 S.E.2d 632, 635 (Ct. App. 2006) (citing *Bloom v. Ravoira*, 339 S.C. 417, 425, 529 S.E.2d 710, 714 (2000)). A party opposing summary judgment may not rest upon the mere allegations of the pleadings but must instead set forth or point to specific facts in the record showing that there is a genuine issue of material fact. *Bravis v. Dunbar*, 449 S.E.2d 495 (S.C. App. 1994).

DISCUSSION

The Court is mindful that “[a]ll pleadings shall be so construed as to do substantial justice to all parties.” Rule 8(f), SCRPC. However, the Court finds, even after liberally construing his allegations, that Plaintiff has failed to state a claim upon which relief could be granted, and therefore the Defendants’ motion must be, and hereby is, **GRANTED**.

Plaintiff does not specify in his Complaint the exact nature of his allegations against the Defendants, except to make it clear that he does not believe he should have been convicted on the two citations at issue. Such allegations could be construed in numerous ways, but regardless of the construction, Plaintiff’s allegations fail as a matter of law.

To the extent Plaintiff’s claims are construed to be a claim for Malicious Prosecution, he has not established the elements required to support such a cause of action.

In order to recover on a claim of malicious prosecution, the Plaintiff must establish the following elements: “(1) the institution or continuation of original judicial proceedings; (2) by or at the instance of the defendant; (3) termination of such proceedings in the plaintiff’s favor; (4) malice in instituting such proceedings; (5) lack of probable cause; and (6) resulting injury or damage.” *McBride v. Sch. Dist. Of Greenville County*, 389 S.C. 546, 566, 698 S.E.2d 845, 855

Handwritten signature and initials, possibly "TAC" and "#3", written in black ink.

(Ct. App. 2010). "In an action for malicious prosecution, the plaintiff must establish that the criminal proceeding was terminated in his or her favor." *McKenney v. Jack Eckerd Co.*, 304 S.C. 21, 22, 402 S.E.2d 887, 887 (1991).

Plaintiff has admitted in his Complaint that he was convicted, by a jury, on the two criminal citations at issue. As his convictions remain in place, he cannot establish the elements necessary to sufficiently allege a Malicious Prosecution cause of action.

Similarly, were this Court to construe Plaintiff's allegations as an appeal of the Magistrate Court convictions, Plaintiff's claims would still fail as a matter of law.

This Court's jurisdiction over a Magistrate Court conviction is appellate in nature. *DeWitt v. S.C. Dep't of Highways and Pub. Transp.*, 274 S.C. 184, 185, 262 S.E.2d 28, 29 (1980). Under S.C. Code Ann. § 18-3-30, a person convicted, in Magistrate Court, of a criminal offense must file a proper notice of appeal of that conviction within ten (10) days. Furthermore, "it has been the established rule that a circuit judge cannot reverse a magistrate's judgment when the appellant has failed to serve the magistrate the proper notice and grounds of appeal within the prescribed time limits. *Id.*"

In this case the Plaintiff was convicted on August 26, 2015. To the extent that his Complaint in this case were to be considered a notice of appeal, it was not filed within the ten (10) day time limit set forth by statute, nor was it properly drafted as a notice of appeal. As such, even if this Court were to construe his Complaint as an Appeal, the matter would have to be dismissed as a matter of law.

With regards to Plaintiff's allegations against Judge Williamson, no matter how construed, it is clear that the allegations are barred by the doctrine of Judicial Immunity.



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.*

Presiding over a criminal trial is a judicial function. When liberally reading Plaintiff's Complaint it becomes apparent that he is attempting to sue Judge Williamson simply because he is unhappy with her judicial decisions during his criminal trial. Therefore, pursuant to the common law doctrine of judicial immunity, the claims of the Plaintiff against Judge Williams are dismissed as a matter of law.

Similarly, notwithstanding common law judicial immunity, the South Carolina Tort Claims Act ("SCTCA") bars Plaintiff's allegations with respects to Judge Williamson.¹ *O'Laughlin, supra*, 330 S.C. at 385, 498 S.E.2d at 692 (holding that common law judicial immunity survived the enactment of the SCTCA and is distinct from the form of immunity incorporated in that Act). The SCTCA provides that a governmental entity is not liable for a loss resulting from judicial or quasi-judicial action or inaction. S.C. Code Ann. § 15-78-60(1) and (2).

As set forth in the SCTCA, the provisions of the Act are to be liberally construed in favor of limiting the government's liability. S.C. Code Ann. § 15-78-20(e); *see also, Bakers v. Sanders*, 301 S.C. 170, 391 S.E.2d 229 (1990); *Strother v. Lexington County Recreation Commission*, 332 S.C. 54, 504 S.E.2d 117 (1998). This rule of construction is also in accord with the well-established principles that any law in derogation of common law must be strictly construed. *Watson v. Sellers*, 299 S.C. 426, 385 S.E.2d 369 (Ct. App. 1989).

¹ The South Carolina Tort Claims Act is the sole and exclusive remedy for any tort committed by an employee of a governmental entity acting in the course and scope of his or her employment. S.C. Code Ann. § 15-78-70(a).



Accordingly, Plaintiff's purported allegations against Judge Williamson, even liberally construed, must be dismissed as a matter of law.

In addition to the reasons for dismissal addressed above, the Plaintiff's allegations are clearly barred by S.C. Code Ann. §§15-78-60(4) and (23).

S.C. Code Ann. §15-78-60(4) provides, in pertinent part, that a governmental entity is not liable for a loss resulting from the enforcement of any law and/or ordinance. A liberal reading of the Plaintiff's Complaint makes it clear that he is suing Defendants Aiken County, Arthurs, and Cooper for their roles in enforcing the animal control ordinances of the county of Aiken. Therefore, with the admission that he was convicted by a jury, Plaintiff's allegations are clearly barred and must be dismissed.

Likewise, S.C. Code Ann. §15-78-60(23) states that a governmental entity is not liable for a loss resulting from the "institution or prosecution of any judicial or administrative proceeding." In this case it seems clear that Plaintiff is attempting to sue Defendants Aiken County, Arthurs, and Cooper for that very reason.

Therefore, Plaintiff's allegations must be, and hereby are, dismissed as a matter of law.

Furthermore, Defendants Arthurs and Cooper are entitled to absolute employee immunity under the South Carolina Tort Claims Act, S.C. Code Ann. §§ 15-78-10 *et seq.* The SCTCA "constitutes the exclusive remedy for any tort committed by an employee of a governmental entity." S.C. Code Ann. § 15-78-70(a). An employee of a governmental entity is immune from liability for tortious acts committed within the scope of his or her official duties. *Flateau v. Harrelson*, 355 S.C. 197, 584 S.E.2d 413 (Ct. App. 2003).

The Plaintiff attempts to sue these Defendants for their roles as Animal Control Officers who brought criminal charges against him for violations of various animal control

ordinances/law in the County of Aiken. Therefore, even if Plaintiff's allegations were not subject to dismissal *in toto*, which they clearly are, Defendants Arthurs and Cooper would be improper parties to this lawsuit pursuant to the SCTCA and are, therefore, dismissed as a matter of law.

Finally, the Court finds that Plaintiff's allegations must be dismissed pursuant to the doctrine of *res judicata* and/or collateral estoppel.

The doctrine of collateral estoppel provides that "once a final judgment on the merits has been reached in a prior claim, the relitigation of those issues actually and necessarily litigated and determined in the first suit are precluded as to the parties and their privies in any subsequent action based upon a different claim. *Richburg v. Baughman*, 290 S.C. 431, 434, 351 S.E.2d 164, 166 (1986). The doctrine of *res judicata*, on the other hand, "bars a litigant from raising any issues which were adjudicated in the former suit and any issues which *might* have been raised in the former suit." *Pye*, 325 S.C. at 433, 480 S.E.2d at 458 (emphasis added). See also, *Johnson v. Greenwood Mills, Inc.*, 317 S.C. 248, 452 S.E.2d 838 (1994) (*res judicata* bars subsequent action by the same parties on the same issues). "Res judicata also bars subsequent actions by the same parties when the claims arise out of the *same transaction or occurrence* that was the subject of a prior action between those parties." *Pye*, 325 S.C. at 432, 480 S.E.2d at 458 (emphasis added).

Specifically relevant in the analysis of the instant motion is the fact that the South Carolina Supreme Court has found that "once a person has been criminally convicted, the person is bound by that adjudication in a subsequent civil proceeding based on the same facts underlying the criminal conviction." *Doe v. Doe*, 346 S.C. 145, 148, 551 S.E.2d 257, 258 (2001); *see also, Zurcher v. Bilton*, 379 S.C. 132, 135-136, 666 S.E.2d 224, 226 (2008).

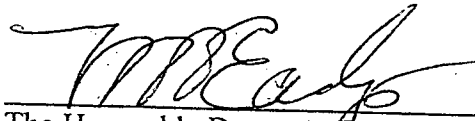


Even a liberal reading of Plaintiff's Complaint shows that he is attempting to collaterally attack his magistrate level convictions. Those convictions have not been overturned and remain un-appealed. Therefore, such an attack is improper. *See generally, Heck v. Humphrey*, 512 U.S. 477, 114 S.Ct. 2364 (1994).

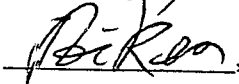
Therefore, in addition to the reasons set forth above, the Court finds that Plaintiff's allegations are barred by the doctrines of collateral estoppel and/or *res judicata*. Consequently, they must be, and hereby are, dismissed as a matter of law.

Plaintiff simply cannot successfully maintain a cause of action based on any of his allegations in this case, and therefore the Court finds that Defendants motion must be, and hereby is, **GRANTED**, and this matter is hereby **DISMISSED**.

AND IT IS SO ORDERED.


The Honorable Doyet A. Early, III
Chief Administrative Judge
2nd Judicial Circuit

October 27, 2016

, South Carolina

State of South Carolina
County of Aiken

Court of Common Pleas

Carlton E. Cantrell)
)
 Plaintiff,)
 v.)
)
 Aiken County, et al)
)
 Defendant.)

Transcript of Record
2015-CP-02-02241

October 10, 2016
Aiken, South Carolina

B E F O R E:

The Honorable Doyet A. Early, III, Judge.

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

Carlton E. Cantrell, pro se
On behalf of the Plaintiff

Daniel Plyler, Esquire
Attorney for the Defendants

Bethanie K. Creppon
Circuit Court Reporter

P R O C E E D I N G S

* * *

1
2
3 THE COURT: All right. I have a motion for
4 summary judgment on Carlton Cantrell vs. Aiken
5 County, et al.

6 MR. PLYLER: Good afternoon, Judge. Daniel
7 Plyler here on behalf of the defendants. It's our
8 motion for summary judgment and/or judgment on the
9 pleadings.

10 THE COURT: Are you going to argue it or you
11 going to let your associate argue it?

12 MR. PLYLER: I asked her if she wanted to her.

13 THE COURT: She can argue it.

14 MR. PLYLER: I don't think she's prepared.

15 THE COURT: You can have a seat, Mr. Cantrell,
16 if you'd like.

17 MR. PLYLER: This particular civil action was
18 filed by Mr. Cantrell on September 22nd, 2015.
19 Essentially, it is a complaint regarding exceptions
20 Mr. Cantrell takes to the way a magistrate court
21 criminal proceedings were undertaken against him and
22 an eventual jury conviction. That trial happened on
23 August 26th of 2015. He was found guilty of two
24 animal control citations; one for domestic animals
25 at large and one for a failure to vaccinate domestic

1 animals.

2 His entire complaint is essentially what we
3 consider to be an improper collateral attack on
4 those criminal convictions. To the extent that he
5 tries to say this is an appeal of these convictions,
6 which we adamantly deny it is, it would be untimely.
7 So we've considered it a civil action against the
8 named defendants.

9 One of the named defendants, Your Honor, is the
10 magistrate judge that oversaw the criminal
11 proceedings against Mr. Cantrell, and that's Judge
12 Donna Williamson. Our first ground for summary
13 judgment would be she's clearly entitled to judicial
14 immunity under the common law and under the Tort
15 Claims Act. All she did is preside over the
16 criminal proceedings in magistrate court jury trial
17 that proceeded against Mr. Cantrell in August of
18 2015.

19 His allegations in the complaint have to do
20 with evidentiary rulings she made, rulings she made
21 regarding the selection of the jury, and the fine
22 that she imposed after the jury found him guilty, so
23 nothing that would support a claim against her
24 outside of judicial immunity.

25 The second argument we'd make, Your Honor, has

1 to do with Officers Arthurs and Cooper under the
2 Tort Claims Act to the extent that this is a tort
3 claim act that he's brought. They would be entitled
4 to absolute employee immunity. The Tort Claims Act
5 clearly says you got to name the entity, not the
6 individual officers.

7 Basically, he's saying they shouldn't have
8 issued citations against him. These are the same
9 citations that he was later convicted on. And
10 Officer Cooper did prosecute it on behalf of Aiken
11 County during the jury trial. All of that was
12 within his official duties as an animal control
13 officer.

14 Third argument, Your Honor, would be that the
15 entire case should be dismissed due to it being a
16 collateral attack on a valid jury conviction.
17 Mr. Cantrell has not had that jury conviction set
18 aside.

19 Under the Doe v. Doe case and Zurcher v. Bilton
20 case, he's bound by the conviction. He can't argue
21 against -- or argue facts that would go against that
22 conviction in this proceeding. In many ways, Your
23 Honor, this is similar to the Heck v. Humphries
24 United States Supreme Court case, which basically
25 likens these sort of claims to a malicious

1 prosecution action.

2 And, at best, giving it a reading, that may be
3 what Mr. Cantrell is trying to bring is some sort of
4 malicious prosecution claim. The criminal
5 conviction itself does away with one of the key
6 elements that he would have to prove. So even if we
7 consider this a malicious prosecution claim, we're
8 entitled to summary judgment because he can't show
9 the proceedings terminated in his favor.

10 The last argument we have, Your Honor, goes
11 along those same lines and comes out of the Tort
12 Claims Act. One of the exceptions to the waiver of
13 sovereign immunity that provides -- or retains
14 immunity for the governmental entity is 15-78-60
15 Subpart 23.

16 Subpart 23 specifically makes governmental
17 entities immune for losses resulting from -- and I'm
18 quoting the institution or prosecution of any
19 judicial or administrative proceedings.
20 Mr. Cantrell's entire complaint is about the
21 institution and prosecution of the magistrate-level
22 charges against him; therefore, under the Tort
23 Claims Act, we'd be immune.

24 I think that's our argument in a nutshell, Your
25 Honor. I'm happy to answer any questions the Court

1 has.

2 THE COURT: Mr. Cantrell, I'll be glad to hear
3 from you. Anything you want to tell me?

4 MR. CANTRELL: Well, the charges were brought
5 up against me for dogs that don't belong to me.
6 That's the beginning. And the way the Court was
7 handled was very malicious for what the Judge did.
8 There was no witnesses there, I didn't have a
9 lawyer, I represented myself. Everything that I
10 said was wrong.

11 She got rid of the first five that I picked for
12 the jurors, she let them go. There's a lot of
13 things that just wasn't done right. I had a witness
14 there, and basically everything that I said and was
15 said in there had nothing to do with -- the dogs
16 weren't even fine. And we wound up in Judge
17 Carroll's court. And to this day, them dogs are
18 still there and they haven't come and gotten them.
19 And they're not my dogs. These are the dogs that
20 they wrote up -- wrote me up for.

21 Now Aiken County is playing games with me about
22 these rabies shots. Now, they told me -- a guy got
23 bit by a dog and they told me that rabies shots are
24 not required, only if the dog bites someone. I
25 said, all right.

1 Well, they come and write me up for failure to
2 vaccinate. So now Aiken County lied to me and they
3 set me up in a trap and they used these officers to
4 do that. And then it was a staged courtroom, it was
5 a staged trial, everything was staged. I wasn't
6 given a fair opportunity for trial.

7 Now, Judge Carroll is different; she does her
8 court right. And it was very fair in her court and
9 I had a jury trial transcript of her court. And I
10 got all the rabies shots, the strays were still
11 there, animal control refuses to come get them. The
12 same dogs they wrote me up for, they refuse to come
13 get them, so the dogs are still there.

14 I figure what they're going to do is they're
15 going to get this thrown out and they're going to
16 come out and start writing me up again and they're
17 going to use Judge Williamson and get me in her
18 court and start playing this game again where
19 they're going to fine me. And that's what we're
20 looking at. That's what's going on.

21 It's just a vicious circle that's going on in
22 Aiken County, and it's wrong. And I got the right
23 to defend myself, but I can't afford a lawyer, so I
24 got to do this on my own.

25 And there's no correspondence. I sent them

1 stuff. We had already had the jury trial scheduled.
2 We were doing the paperwork, they don't correspond
3 with me. There's no correspondence whatsoever. And
4 all I get from them is motions. I don't know how to
5 do that. You know, I'm not a lawyer. I'm just
6 trying to protect and defend myself from the way I'm
7 being treated, which is wrong. And these officers
8 are wrong for what they did.

9 THE COURT: All right, sir. Anything else?

10 MR. CANTRELL: I'm sure there is, but I can't
11 think of it right now.

12 THE COURT: I understand. Sometimes I'm like
13 that. All right. I'll take it under advisement and
14 get a ruling out within about 15 days. Thank you
15 very much.

16 MR. PLYLER: Thank you, Your Honor.

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C E R T I F I C A T E

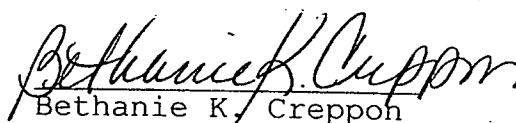
1
2
3 STATE OF SOUTH CAROLINA

4 COUNTY OF AIKEN

5
6 I, the undersigned, Bethanie K. Creppon, Circuit
7 Court Reporter for the Second Judicial Circuit of
8 the State of South Carolina, do hereby certify that
9 the foregoing is a true, accurate and complete
10 transcript of record of all the proceedings had and
11 the evidence introduced in the hearing of the
12 captioned cause, relative to appeal in the Circuit
13 Court for Aiken County, South Carolina, on the 10th
14 of October, 2016.

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

17
18 February 3, 2017

19
20 
21 Bethanie K. Creppon
22 Circuit Court Reporter
23
24
25

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE COURT OF COMMON PLEAS
Aiken County

Doyet A. Early, III, Circuit Court Judge

Appellate Case No. 2016-002275

RECEIVED

MAY 31 2017

SC Court of Appeals

Carlton E. Cantrell,

.....Appellant

VS

Aiken County, Aiken County Animal Control / Code
Enforcement Director Bobby Arthurs, Aiken County
Animal Control / Code Enforcement Officer Ron Cooper,
Judge Donna L. Willamson

.....Respondents

CERTIFICATE OF CONTENTS RULE 210(g)

The undersigned Plaintiff/Appellant hereby certifies that the Record on Appeal contains all the matter proposed to be included by either party.

MAY 31, 2017



Carlton E. Cantrell/Appellant

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Aiken, South Carolina 29805

(803) 215-4747