

STATE OF SOUTH CAROLINA)
)
 COUNTY OF GREENVILLE)
)
)
 Shaheen Cabbagestalk, #295567,)
)
 Plaintiff,)
)
 v.)
)
 South Carolina Department of)
 Corrections,)
)
 Defendant.)

IN THE COURT OF COMMON PLEAS

Civil Action No. 16-CP-23-6914

ORDER

RECEIVED

NOV 30 2017

SC Court of Appeals

FILED-CLERK OF COURT
 PAUL B. WICKENS/MSR
 GREENVILLE CO. SC

2017 SEP 15 PM 4: 20

This matter came before the Court on Defendant's motion to dismiss. A hearing was held on July 25, 2017, at which Plaintiff and counsel for Defendant were present and offered argument. After considering the pleadings, the motion to dismiss, and the arguments of the parties, the Court hereby grants Defendant's motion to dismiss for the reasons discussed below.

Plaintiff, who is an inmate in the South Carolina Department of Corrections (SCDC), filed the instant Complaint naming SCDC as the sole Defendant. The Complaint appears to take issue with several aspects of his confinement. For instance, Plaintiff appears to allege that there was a problem with a water sprinkler that caused his cell to flood and that he was fed cold food that contained bugs. Likewise, he complains that he was erroneously convicted of a disciplinary infraction, after which he was placed on lock-up. Plaintiff also complained about the conditions of confinement while in lock-up. The remainder of the Complaint, where legible, consists mostly of rambling allegations with no clear relevance. It is not apparent from the Complaint what claims Plaintiff is attempting to assert against Defendant.

In view of this, Defendant filed a motion to dismiss asserting that Plaintiff's Complaint failed to state facts sufficient to constitute a cause of action. Defendant also argued that the

Complaint was infirm because it failed to set forth a "short and plain statement of the facts" as required by Rule 8(a)(2), SCRPC. Similarly, the Complaint does not comply with Rule 10(b), which requires allegations to be set forth in separately numbered paragraphs, each containing only a single set of circumstances. Plaintiff also fails to identify or separately state his causes of action as required by this Rule. After a thorough review of the Complaint, this Court agrees with Defendant. Therefore, the Court finds that the Complaint should be dismissed for failure to state facts sufficient to constitute a cause of action.

Even if Plaintiff had stated facts sufficient to constitute a cause of action, Defendant asserted that this Court would lack subject matter jurisdiction. Complaints regarding administrative matters, are required to proceed through the administrative review process pursuant to *Al-Shabazz v. State*, 338 S.C. 354, 527 S.E.2d 742 (2000). In *Al-Shabazz*, the Supreme Court held

Brown v. Dodson

Today we . . . hold that an inmate may seek review of Department's final decision in an administrative matter under the APA. Placing review of these cases within the ambit of the APA will ensure that an inmate receives due process, which consists of notice, a hearing, and judicial review. It also will provide an orderly and consistent framework for resolving such matters.

*not an
Constitutional
Right to Comply*

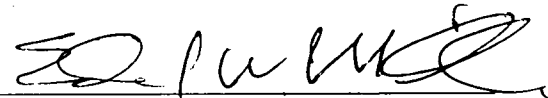
338 S.C. at 369, 527 S.E.2d at 750. Included in "administrative matters" are things like solitary confinement, custody status, and conditions of imprisonment. 338 S.C. at 368-69, 527 S.E.2d at 749-50. Therefore, the proper mechanism to challenge administrative matters is through the institution's grievance procedure, with review of a final decision by an ALJ. 338 S.C. at 377, 527 S.E.2d at 754. In *Slezak v. SCDC*, 361 S.C. 327, 605 S.E.2d 506 (2004), the Supreme Court reiterated that this is a matter of subject matter jurisdiction. Because Plaintiff's Complaint contains allegations (related only to administrative matters), this Court lacks subject matter jurisdiction. Therefore, the Court finds that dismissal is required under Rule 12(b)(1).

CONCLUSION

Plaintiff's Complaint is hereby dismissed for two distinct reasons: (1) the Complaint fails to state facts sufficient to constitute a cause of action, and, (2) this Court lacks subject matter jurisdiction under *Al-Shabazz* because Plaintiff complains only of administrative matters.

Based on the foregoing, this Court GRANTS Defendant's motion to dismiss and DISMISSES this action in its entirety and with prejudice.

AND IT IS SO ORDERED.



The Honorable Edward W. Miller
Circuit Court Judge

9/14, 2017

GVL, South Carolina

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

JUDGMENT IN A CIVIL CASE
CASE NO: 2016CP2306914

FILED-CLERK OF COURT
PAUL B. WILKINS
GREENVILLE, SC
2017 SEP 15 PM 4:20

Shaheen Cabbagestalk vs. Corrections South Carolina Department Of

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; Statement of Judgment by the Court:

NOTICE

Enclosed is a clocked copy of an order filed in this case.

Dated at Greenville, South Carolina, this 15th day of September, 2017.

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SC Court of Appeals

Court Reporter:

PRESIDING JUDGE -

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ATTORNEY(S) FOR THE DEFENDANT(S)