



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
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January 24, 2018

The Honorable Jeanette W. McBride
PO Box 2766
Columbia SC 29202-2766

REMITTITUR

Re: Clarence B. Jenkins, Jr. v. SCDEW
Lower Court Case No. 2015CP4003112
Appellate Case No. 2015-002356

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Jenny A. Kitchings".

CLERK

Enclosure

cc: Clarence B. Jenkins, Jr.
Eugene Hamilton Matthews, Esquire

The Supreme Court of South Carolina

RECEIVED

Clarence B. Jenkins, Jr., Petitioner,

JAN 16 2018

v.

SC Court of Appeals

South Carolina Department of Employment &
Workforce, South Carolina Budget & Control Board, and
Office of the Governor of South Carolina, Respondents.

Appellate Case No. 2017-001902
Lower Court Case No. 2015-CP-40-03112

ORDER

Based on the vote of the Court, the petition for a writ of certiorari to the court of appeals, the "Petition Supreme Court of South Carolina For a Review of Constitution Violations and Judicial Rule 501," the "Motion Seeking Certification of Question of Law," and the "Petition Supreme Court of South Carolina For a Remand" are denied.

FOR THE COURT

BY



CLERK

Columbia, South Carolina

January 12, 2018

cc: Eugene Hamilton Matthews, Esquire
Clarence B. Jenkins, Jr.
The Honorable Jeanette W. McBride
The Honorable Jenny Abbott Kitchings

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

Clarence B. Jenkins, Jr., Appellant,

v.

South Carolina Department of Employment &
Workforce, South Carolina Budget & Control Board, and
Office of the Governor of South Carolina, Respondents.

Appellate Case No. 2015-002356

Appeal From Richland County
G. Thomas Cooper, Jr., Circuit Court Judge

Unpublished Opinion No. 2017-UP-217
Submitted April 1, 2017 – Filed May 24, 2017

AFFIRMED

Clarence B. Jenkins, Jr., of Neeses, pro se.

Eugene Hamilton Matthews, of Richardson Plowden &
Robinson, PA, of Columbia, for Respondents.

PER CURIAM: Affirmed pursuant to Rule 220(b), SCACR, and the following
authorities: Rule 12(b)(6), SCRCR (stating a circuit court may dismiss a complaint
when the defendant demonstrates the plaintiff's complaint fails to allege facts
sufficient to constitute a cause of action); *Dawkins v. Union Hosp. Dist.*, 408 S.C.

171, 176, 758 S.E.2d 501, 503 (2014) (providing the same standard of review for circuit courts and appellate courts when considering a motion to dismiss pursuant to Rule 12(b)(6), SCRCP: "whether the defendant demonstrates the plaintiff has failed to state facts sufficient to constitute a cause of action in the pleadings filed with the court"); *Flateau v. Harrelson*, 355 S.C. 197, 202, 584 S.E.2d 413, 416 (Ct. App. 2003) (noting this court will affirm a dismissal under Rule 12(b)(6) "if the facts alleged in the complaint do not support relief under any theory of law"); *Staubes v. City of Folly Beach*, 331 S.C. 192, 204, 500 S.E.2d 160, 167 (Ct. App. 1998) ("The South Carolina Tort Claims Act, S.C. Code Ann. § 15-78-10 [to -220 (2005 & Supp. 2016)], is a limited waiver of governmental immunity."); S.C. Code Ann. § 15-78-60(17) (2005) ("The governmental entity is not liable for a loss resulting from . . . employee conduct outside the scope of his official duties, or which constitutes actual fraud, actual malice, intent to harm, or a crime involving moral turpitude."); *Pallares v. Seinar*, 407 S.C. 359, 370, 756 S.E.2d 128, 133 (2014) ("The tort of abuse of process is intended to compensate a party for harm resulting from another party's misuse of the legal system."); *id.* ("The essential elements of abuse of process are (1) an ulterior purpose, and (2) a willful act in the use of the process that is not proper in the regular conduct of the proceeding.").

AFFIRMED.¹

LOCKEMY, C.J., and HUFF and THOMAS, JJ., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.