

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM GREENVILLE COUNTY COURT OF COMMON PLEAS
Edward W. Miller, State Court Judge
Judgment in a civil suit case
Number # 2017-CP-23-03406

RECEIVED

MAR 16 2018

SC Court of Appeals

Appellate Case No. # _____

Tyrone Lamar Roberson, 191327
Plaintiff,

Appellant

vs.

Alan Wilson,
Defendant, et al

Respondent

NOTICE OF APPEAL

This Appeal is taken by Appellant from an adverse order of dismissal by Judge Edward W. Miller March 5, 2018. Appellant via incoming legal mail at Lieber Correctional Institution during March 8, 2018 received and signed for order by mail. This Appeal follow:

This matter come before the court on Defendants Motion to Dismiss, which was filed on July 25, 2017 by Attorney Stephanie H. Burton. A hearing of this Motion was initially scheduled for September 19, 2017 but was canceled and rescheduled for November 1, 2017.

During September 27, 2017 plaintiff pro se filed Motion of objection in opposition to Defendants Motion to Dismiss, along with Motion to Amend Complaint in Civil Case Action # 2017CP2303406.

A hearing was held on November 1, 2017. Taylor P. Heath appeared on behalf of Stephanie H. Burton for Defendants. And Plaintiff appeared pro se.

At the hearing plaintiff asserted on the record that he was subjected to torture with draconian restriction and a condition of confinement by Defendants Alan Wilson, et al that deprived plaintiff of the very best minimum of life necessities in violation of South Carolina Constitution Article XX, § 2.

Plaintiff cause of action against Defendants Alan Wilson et al and third-party SCDC Perry and McCormick Correctional

institution inmate program services private health care provider Ms. Tancia L. James reckless and intentional tort consisting of an assault and battery arising from the performance of tuberculosis impure shot injection Friday - February 20, 2015 without informed consent which is the proximate cause of plaintiff injury and irreparable harm stated a cause of action based on intentional tort, for which Defendants inmate program services private health care provider of SCDC (Medical) was not immune under the doctrine of charitable immunity. At all times relevant to this action the Defendants had in force a comprehensive employee liability insurance policy coverage that bonded by a nationally registered commercial insurance carrier.

Plaintiff brought this action against Defendants Attorney General Alan Wilson and Ms. Tancia L. James, et al of McCormick Correctional Institution inmate program services private health care provider of SCDC (Medical) seeking actual and punitive damages of \$10,000,000 Dollars for personal injuries he sustained while a student, patient, inmate, client, prisoner in the custody and care of the political subdivision of Defendants.

The inquiry into whether a prison official acted with deliberate indifference has both an objective and subjective component.

In order to satisfy the objective component, the prisoner must show that the medical need is "sufficiently serious."

To satisfy the subjective component, the prisoner must allege facts which show that the prison official had a "sufficiently culpable state of mind."

If the employer retains the right to direct or control the time and manner of executing the work or interferes and assumes control so as to create the relation of master and servant or so that an injury results which is traceable to his interference... raises an issue of fact on the issues of assumption of risk and contributory negligence. Questions of contributory negligence and assumption of the risk are ordinarily facts for the jury to resolve.

Master is subject to liability for harm caused by negligent conduct of servant within the scope of employment. But the denial of existence of agency (serv) relationship by defendant Alan Wilson is a question of fact that should ultimately be decided by the jury.

See *Carit v. Marcum*, cite as 423 S.E. 2d 644 (W. Va. 1992),
id. at 647; *NEELY, Justice*: [2] However, "[5] Justice is
not done when an injured person loses his right to
sue before he discovers if he was injured or who
to sue." *Hickman v. Grover*, 178 W. Va. 249, 252,
358 S.E. 2d 810, 813 (1987).

At the hearing November 1, 2017 before Edward W.
Miller, Judge... He move to exclude Attorney General
Alan Wilson from plaintiff suit in law and inequity.
Plaintiff than objected... to not have Attorney General
Alan Wilson removed from the case because it would
deprive him of his cause of action. At that time the
Judge dismissed my claim alleging & failed to execute personal
service of process of complaint on Agency employee's
identity Defendants... And the Judge asserted on the record
that Attorney General Alan Wilson is not a proper defendant
in this action... And dismiss plaintiff off the record.

Plaintiff-Appellant ask the court of Appeals to please review the November 1, 2017 transcript and pleadings to determine if the Judge Edward W. Miller may have committed any error - reversible error - with abuse of his discretion in violation this section Formen § 26 of Article V . with intent to commit extrinsic fraud in violation of Rule 60

SIGNED THIS 13 DAY OF MARCH 2018 .

RESPECTFULLY SUBMITTED
Tyrone Robertson

Tyrone Robertson #191327
Lieben Corrections Institution
RHM/BMY 143B
136 Wilborn Avenue
Ridgeville, SC 29472

Stephanie Holmes Burton, Esquire
G+B BBS BURTON, LLC
Attorneys & Counselors
308 East Saint John Street
Spartanburg, South Carolina 29302

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of Appellant Notice of Appeal, orders from lower court, and plaintiff Motion to alter or Amend judgment has been deposited into the United States postal Mail Box carrier with postage prepaid addressed to be delivered to: THE SOUTH CAROLINA COURT OF APPEALS
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

SIGNED THIS 13TH DAY OF MARCH 2018.

RESPECTFULLY SUBMITTED
TYRONE ROBERTSON

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SC Court of Appeals

TYRONE ROBERTSON # 191327
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Ridgeville, SC 29472

cc.

Tyrone Roberson #191327
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Jenny Abbott Kitchings, Clerk
The South Carolina Court of Appeals
1220 Senate Street
Columbia, South Carolina 29201

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DATE: MARCH 13, 2018

Dear Clerk

Enclosed with this letter is an original copy of Notice of Appeal, Court orders, and motion to alter or amend judgment that I need for you to please file accordingly in my behalf. Thank you

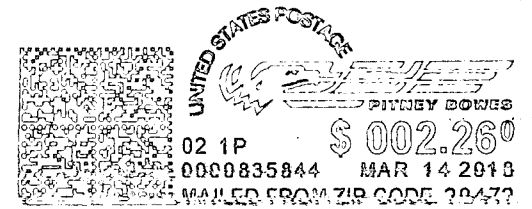
RESPECTFULLY SUBMITTED
Tyrone Roberson

cc.

FROM: MR. TYNONE ROBERSON # 191327
Lieber Connections Institution
RHM / GMU 143B
136 Wilborn Avenue
Ridgeville, SC 29472

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COLUMBIA, SOUTH CAROLINA 29201

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