

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Richland Co. Court of Com. Pleas
the Hon. Robert E. Hood
2019-000049

RECEIVED

MAY 22 2019

SC Court of Appeals

Bennie Mitchell

Appellant

vs

Dir. of S.C.D.C.

Bryan P. Stirling et al

Respondent

DESIGNATION OF MATTER TO BE
INCLUDED IN THE RECORD ON APPEAL

Appellant propose the following be included in the record
on appeal

- (1) Notice of motions Ex. A alone w/attache Ex A/B
- (2) I/m trust fund acct. Ex. B
- (2) 59(c) motion Ex C
- (3) Judge's ruling upon 59(c) Ex. D
- (4) Judge's ruling upon notice of motions Ex. E

I certify that this designation contains no matter
which is irrelevant to this appeal.

~~Bennie Mitchell~~

Date May 20, 19

Bennie Mitchell
Fairfield Co. jail
#10 Faith Lane
Wintersboro, SC 29180



South Carolina
Law Enforcement Division

P.O. Box 21398
Columbia, South Carolina
29221-1398

Henry D. McMaster, Governor
Mark A. Keel, Chief

Tel: (803) 737-9000

Ex. B

June 8, 2018

Bennie Mitchell #278318
Tyger River Correctional Institution U.3.124
200 Prison Rd
Enoree, South Carolina 29335

Dear Mr. Mitchell:

We have reviewed your South Carolina criminal record and as of June 8, 2018 the only names, including alias names, listed on your South Carolina criminal history are: Bennie Darren Mitchell, which was added from your arrests in Newberry; and Bennie Darron Mitchell, added by Clinton Police Department. As for the name Parren, we have modified it to read Darren.

It appears that Darren and Darron were added to you South Carolina criminal record due to the booking officer's different spellings of Darren/Darron.

There are no alias names of Danon, Dalton, Bernie or Benny on your criminal history. If these names are in your files, it appears to be from the Department of Corrections, not SLED.

I hope this information will assist you.

Sincerely,

AFIS/Fingerprint Department
SLED CJIS



An Accredited Law Enforcement Agency



ELECTRONICALLY FILED - 2018 Jul 23 12:15 PM - RICHLAND - COMMON PLEAS - CASE#2018CP4003812

Ex. A

INMATE GRIEVANCE FORM

STEP 1

RECEIVED

INMATE NAME: <u>Bennie Mitchell</u>	OFFICE USE ONLY Grievance No. <u>TYIC 2018 0197-18</u>
SCDC NUMBER: <u># 278318</u>	Code: <u>WARDEN'S OFFICE</u>
INSTITUTION: <u>Tyger River</u> 5-4-18 BPK	Policy: _____
HOUSING UNIT: <u>U. 3. 124</u>	Disc. Hear. _____
WORK ASSIGNMENT: <u>Head Barber</u>	Class. _____
	PREA _____
	Date Received <u>5-7-18</u>
	IGC Initials <u>CF</u>

STATEMENT OF GRIEVANCE (Indicate the date of incident, and if the grievance is a challenge to SCDC Policy, specify which policy. Include supporting documentation and attach answered RTSM or Kiosk reference number.)

On 5-3-18 Case Manager, MR. Fowler informed me of the actual alias names that is shown on my Just I/m record

- Danon
- Darren — Newberry Police
- Dalton
- Bernnie
- Benny
- and I.D Parren

Which I have never used or went by. Nor do I know where these alias came from or why. SEE: 18_00902276 and 18_0089153. 00 89 8153

Bennie Mitchell 5-4-18

Grievant Signature Date

ACTION REQUESTED: For the above alias names to be removed from my Just/I/m record; to know where the names came from and for the guilty parties to be held legal responsible.

ACTION TAKEN BY IGC: PROCESSED UNPROCESSED OTHER

Your grievance was received and is being returned because, it has been determined that this issue is outside of SCDC control and therefore, non-grievable. Alias names are provided by NCIC.

J. Crumley 5/9/18

IGC Signature Date

(CONTINUE ON REVERSE SIDE)

Ex A

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

Bennie Mitchell

Plaintiff

VS

Dir. of S.C.D.C.

Bryan P. Stirling

State Classification

Case Manager Jeannette

Scarborough and Tyger

River Corr. Inst. Case

Manager Mike Fowler

Defendants

IN THE COURT OF COMMON PLEAS
#2018-CP-400-3812

NOTICE OF MOTIONS
AND

MOTION OF MOTIONS/
VERIFIED COMPLAINT(S)

RICHLAND COUNTY
FILED
2018 JUL 20 AM 10:00
JEANNETTE W. MCBRIDE
C.C.P. & G.S.

NOW COMES the above named Plaintiff who moves
this Hon. court in the above entitled matter per
S.C.R. Civil P. - Rule (s) 57 and 65 (d) and
any other applicable rules and laws.

On May 4, 18 I filed my grievance on the

1 of 6

alias names that is shown on my Inst. record, that should not be. Because I have never used these names.

Although, the I&C stated that the alias names are provided by N.C.I.C. SEE; attached I/m grievance T.V.R.C.I. #0197-18 - Ex. A

Therefore, I wrote SLED, which they stated in a letter dated 6-8-18, that the alias names is from S.C.D.C. not SLED. SEE; attached letter - Ex. B

Thus on 6-20-18 and 6-26-18 I wrote Mr. Fowler on the Kiosk #18-00940-800 and #18-00948867 about removing the alias names from my Inst. record and removing the alias name "Parren" from my I/m I.D. card

Here I have clearly met the three elements that constitute the irreducible constitutional minimum of standing. that a favorable decision of a/this ct. will redress the injury.

Because the alias names should not be shown on my Inst. record or used by S.C.D.C. SEE: Sea Pines Ass'n for Protection of Wildlife, Inc. S.C. Dept. of Natural Resources 550 SE2d 287,

Thus I have standing to maintain this action. Where my case would in fact end this justiciable controversy - practical legal effect upon the existing controversy SEE: Jackson v State 489 SE2d 915; Seabrook v City of Folly Beach 523 SE2d 462 Also see 15-53-130

Whereas I am entitled to have

The alias names immediately removed
from my Inst. record and I/m I.D.
card

If the Defendants argue or this Hon.
court deems that I am not entitled
to a Declaratory judgment /injunctive
relief.

I MOVE IN THE ALTERNATE:
For a WRIT OF MANDAMUS

As argued above, here the Defendants
has a clear ministerial duty to act,
"remove the alias names from my Inst.
record and I/m I.D. card", a duty
to perform the act, which I have
a legal RIGHT in this matter but
no other legal remedy SEE: Ex. parte

Littlefield 540 SEcd 81; William v
Greenville City 132 SEcd 169; Holden v
Cribb 561 SEcd 634.

Dated July 9, 18 Respectfully submitted
Benjie Mitchell

VERIFICATION

I, Benjie Mitchell have read the foregoing verified complaint and hereby verify that the matters alleged therein are true to my understanding and belief. And, as to those I believe them to be true, I certify under penalty of perjury that the foregoing is true and correct.

SWORN to before me s/ Benjie Mitchell
this 9 day of July 2018

Regina A. Proctor

Notary Public

my Commission Expires March 24, 2027

Tyger River

Ex B

INMATE TRUST FUND ACCOUNT REPORT for SOUTH CAROLINA COURT FILING FEES

INSTRUCTIONS TO INMATE: Complete top portion then give to your mailroom. When returned from Accounting, you must mail this form with any payment to the Court.

By signing my name below, I am asking the Financial Accounting Office of the South Carolina Department of Corrections to complete this report. In accordance with SC Code of Laws §24-27-100 and 150, I authorize payment of the full filing fee. If I have insufficient funds in my account at this time to pay the court's full filing fee, I authorize SCDC to deduct the initial and subsequent payments until payment is completed.

INMATE NAME (print): Bernie Mitchell

SCDC # 278318

INMATE SIGNATURE: Bernie Mitchell

I plan to file this action in the SC County of [REDACTED]

The section below is for SCDC - Financial Accounting Branch's use ONLY.

(1) Total deposits to inmate's account for preceding six months' period*	\$	<u>0</u>
(2) Twenty percent (20%) of line 1	\$	<u>0</u>
(3) Account balance - current date	\$	<u>0</u>
(4) PAYMENT AMOUNT ** (lesser of line 2 or line 3) Enclosed check # _____	\$	<u>0</u>

SCDC - FINANCIAL ACCOUNTING
2018 JUL 20 PM 12:30

NOTE TO COURT: If payment is for partial fee, Court must notify SCDC once case is accepted and filed. Send notice with case # and balance owed to address below. SCDC will not process any additional payments until notification is received from Court.

South Carolina Department of Corrections
Financial Accounting - Room 211
PO Box 21737
Columbia, SC 29221-1737

Peggy Cochran
Financial Accounting Branch - SCDC

7/20/18

Exc

STATE OF SOUTH CAROLINA)
COUNTY OF Richland)

IN THE COURT OF COMMON PLEAS
JUDICIAL CIRCUIT

CASE NO.: 2018 -CP-400-3812

Bennie Mitchell)
Plaintiff,)

**MOTION AND ORDER INFORMATION
FORM AND COVERSHEET**

vs.)
Dr. Bryan Stirling et al.)
Defendant.)

RICHLAND COUNTY
FILED
JEANNETTE W. MCBRIDE
C.C.P. & S.S.
2018 OCT 19 PM 12:52

Plaintiff's Attorney:
Bennie Mitchell, Bar No. _____
Address: 200 Prison Rd.
Evolvee, SC 29335
Phone: _____ Fax: _____
E-mail: _____ Other: _____

Defendant's Attorney:
_____, Bar No. _____
Address: _____
Phone: _____ Fax: _____
E-mail: _____ Other: _____

- MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)
- FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)
- PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

SECTION I: Hearing Information
Nature of Motion: 59(c) motion
Estimated Time Needed: 15 min Court Reporter Needed: YES / NO

SECTION II: Motion/Order Type
 Written motion attached
 Form Motion/Order
I hereby move for relief or action by the court as set forth in the attached proposed order.
Bennie Mitchell Oct 15, 2018
Signature of Attorney for Plaintiff / Defendant Date submitted

SECTION III: Motion Fee
 PAID - AMOUNT: \$ _____
 EXEMPT: (check reason) Rule to Show Cause in Child or Spousal Support
 Domestic Abuse or Abuse and Neglect
 Indigent Status State Agency v. Indigent Party
 Sexually Violent Predator Act Post-Conviction Relief
 Motion for Stay in Bankruptcy
 Motion for Publication Motion for Execution (Rule 69, SCRPC)
 Proposed order submitted at request of the court; or,
reduced to writing from motion made in open court per judge's instructions
Name of Court Reporter: _____
 Other: _____

JUDGE'S SECTION
 Motion Fee to be paid upon filing of the attached order.
 Other: _____
JUDGE CODE _____
Date: _____, 20____

CLERK'S VERIFICATION
Collected by: _____ Date Filed: _____, 20____
 MOTION FEE COLLECTED: \$ _____
 CONTESTED - AMOUNT DUE: \$ _____

Re: 18. CP. 400-3812

Date Oct 15, 18

Dear Hon. McBride

Please find enclosed for filing my 59(c) motion; motion/order into coversheet and a "prior" I/m trust fund account report dated 7-20-18 showing Φ balance preceding 6 months period, if there is any required filing fees for my 59(c) motion.

Would you please return me back a filed copy of the enclosed.

Thanking you in advance, I am

cc: Judge Hood

cc: Atty Fiser

cc: Personal file

Jeremy
B. B. B.

Ex. C

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE CT. OF COMMON PLEAS
#2018-CP-400-3812

Bennie Mitchell
Plaintiff

VS

Dr. Bryan Stirling et. al
Defendants

NOTICE AND MOTION
OF 59 (e)

RICHLAND COUNTY
FILED
2019 OCT 19 PM 12:52
JEANNETTE W. MCBRIDE
C.C.P. & G.S.

NOW COMES the above named Plaintiff who moves this Hon. court in the above entitled matter per. S.C.R. Civil P. Rule 59 (e).

This motion will be based upon the following:

- (1) On Oct 12, 18 I rec'd the form 4 signed by Judge Hood Oct 5, 18 and filed with the Ct. Oct 5, 18. In this form 4 there was no reasoning as to why I was denied out right, to proceed in forma pauperis May be a conflict per. 12-CP-400-8520.
- (2) The Ct. did not consider 24-27-10 and 24-27-100 since my action was assigned a case number and

The fact that I am poor

(3) The Ct. did not consider my 1st, 5th and 14th Amend. rights - "access to the Ct." before out right dismissing my action - thus.

(4) The Ct should not have dismissed my action
SEE Smith v Bennett 81 S. Ct. 895

WHEREFORE: I pray that this Hon. Ct. re-instate my action

Date Oct 15, 18

Respectfully submitted
Beattie Mitchell

PROOF OF SERVICE
2018-CP-400-3812

I, Bennie Mitchell hereby certify that I have served the below persons my 59(c) motion. By placing the above said into the types R.C.I. mail room on this 15th day of Oct, 18 to be placed in the U.S. mail w/ postage prepaid

RICHLAND COUNTY
FILED

2018 OCT 19 PM 12:52

JANETTE W. MCBRIDE
C.P. & G.S.

The Hon. Clerk of Ct.
Janette McBride
1701 Main St.
Colg. SC 29201

The Hon. Judge
Robert E. Hood
P.O. BOX 192
Colg. SC 29202

Atty At Law
Cole Riser
P.O. Drawer 7788
Colg. SC 29202

SUBSCRIBED to before me
this 15th day of October 2018

Bennie Mitchell

Regina Rhodes
Notary Public

My Commission Expires March 24, 2027

cc: Personal file

Ex-D

Bennie Mitchell

Director of SCDC Bryan P. Stirling, et al

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:	Attorney for : <input type="checkbox"/> Plaintiff	<input type="checkbox"/> Defendant
	<input type="checkbox"/> Self-Represented Litigant	

DISPOSITION TYPE (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. See Page 2 for additional information.
- 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
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other

JEANETTE W. MCBRIDE
 CLERK, C.P. & G.S.
 2018 NOV 30 PM 2:11
 RICHLAND COUNTY
 FILED

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 (formal order to follow) Statement of Judgment by the Court: Plaintiff's Motion based on South Carolina Rule of Civil Procedure 59(e) is hereby Denied. Plaintiff's request to proceed in forma pauperis was denied in accordance with South Carolina law. The Court in *Martin v. State* explained that a party may proceed in forma pauperis when only authorized by statute or required by constitutional provisions. 321 SC 533, 353, 471 S.E.2d 134, 135 (1995). In the case at hand, the pleadings do not indicate the presence of South Carolina statutory authorization nor do the pleadings indicate that a certain fundamental right is involved requiring the individual to proceed in forma pauperis.

ORDER INFORMATION

This order ends does not end the case.
 Additional Information for the Clerk :

INFORMATION FOR THE JUDGMENT INDEX		
Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.		
Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$

Ex. E

FORM 4

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

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2018CP4003812

Bennie Mitchell #278318	South Carolina Department Of Corrections Jeannette Scarborough Mike Fowler	Bryan P Stirling Tyger River Correctional Institution
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PLAINTIFF(S)	DEFENDANT(S)
Submitted by:	Attorney for: <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> Self-Represented Litigant

DISPOSITION TYPE (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. See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRCP; Rule 41(a), SCRCP (Vol. No. Suit);
 Rule 43(k), SCRCP (Settled); Other: _____
- ACTION STRICKEN (CHECK REASON):** Rule 40(j) SCRCP; Bankruptcy;
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other: _____
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other: _____

FILED
2018 OCT 5 AM 8:36
RICHLAND COUNTY
JEANNETTE SCARBOROUGH
CLERK OF COURT

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

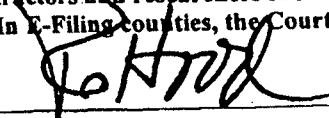
IT IS ORDERED AND ADJUDGED: See attached order; (formal order to follow) Statement of Judgment by the Court:
ORDER INFORMATION

This order ends does not end the case.
Additional Information for the Clerk: Case dismissed. The motion for in forma pauperis was filed and denied on July 23, 2018. Case dismissed as filing fee has not been paid as of this date: _____

INFORMATION FOR THE JUDGMENT INDEX		
Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.		
Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk.
Note: Title abstractors and researchers should refer to the official court order for judgment details.
E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

 _____ 2164 _____ 10/4/2018
Circuit Court Judge Judge Code Date

For Clerk of Court Office Use Only

10/5/18

This judgment was entered on , and a copy mailed first class or placed in the appropriate attorney's box on , to attorneys of record or to parties (when appearing pro se) as follows:

Bennie Mitchell #278318 Tyger River C.I. U.3.124 200
Prison Road Enoree, SC 29335

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Jeanette W. McBride

Court Reporter

Jeanette W. McBride - Clerk of Court

Court Reporter:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRPC.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Richland Co. Ct. of Com. Pl.
the Hon. Robert E. Hood
2019-000049

RECEIVED

MAY 22 2019

SC Court of Appeals

Bennie Mitchell

vs

Appellant

Dir. of S.C.D.C.

Bryan P. Stirling et. al

Respondent

PROOF OF SERVICE

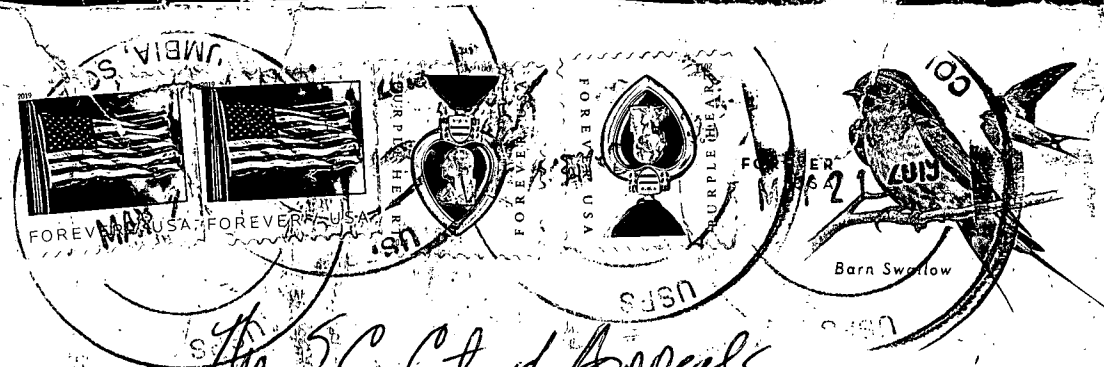
I, Bennie Mitchell hereby certify that I have served the below persons my designation of matter. By placing the above said into the certified to sender hands w/ postage prepaid, to be placed in the U.S. mail on this 20th day of May 19

Bennie Mitchell

v. Claire Allen deputy Clerk
P.O. Box 11629
Columbia SC 29211

Atty. Caleb Riser
P.O. Drawer 7788
Columbia SC 29202

Mr Bennie Mitchell
#10 Faith Lane
Winnsboro, SC 29180



RECEIVED
MAY 22 2019
SC Court of Appeals

The SC Ct. of Appeals
V. Claire Allen, deputy Clerk
P.O. BOX 11629
Columbia, SC 29211