

THE SOUTH CAROLINA COURT OF APPEALS
APPELLATE CASE No. # 2019-001122

RECEIVED
AUG 13 2019
SC Court of Appeals

Tyrone Lamar Robertson, #191327 Plaintiff - Appellant,

vs.

South Carolina Attorney General, Alan Wilson, "private party Defendants of Perry Correctional Institution," Warden Larry Cartledge, Associate Warden Stephen Clayton, "private party Defendants of McCormick Corrections Institution," Warden Leroy Cartledge, Associate Warden James Parker, Jr., Lieutenant Stanley Terry, Nurse Tarcia L. James, "third-party Defendants South Carolina Department of Corrections," State Budget and Control Board Committee, Commissioner of the Palmetto Unified School District No. #1 Board of Trustee Director, Bryan P. Stirling,
Defendants - Respondents

AMENDED NOTICE OF APPEAL

This Amended Notice of Appeal pursuant to SCRul. Civ. Procedures 60(b)3 is taken from The Greenville County Court of Common Pleas adverse dismissal of plaintiff state Tort claim Evidentiary hearing Before Judge Alex Kinlaw, Jr. in the matter of Tyrone Lamar Robertson vs. South Carolina Attorney General, Alan Wilson, et al in Case Action No. # 2017-CP-23-03406 during July 18, 2018

THIS APPEAL FOLLOWS:

QUESTION

Did Judge Alex Kirlaw, Jr during July 18, 2018 committed an Abuse of His trial court Discretion when His Ruling of Dismissal is controlled by an error of law or a factual conclusion that is without evidentiary support that plaintiff was not entitled to maintain a cause of Action for the Recovery of liability Damages against named State Agency Institution political subdivision employees of PENNY and MCCORMICK CONNECTIONAL INSTITUTION OF SCDC by only executing service of process on The South Carolina Attorney General Alan Wilson.

PROCEDURAL HISTORY

(1). This matter came before the court on motion to dismiss of Defendants South Carolina Department of Connections, LARRY CARTLEDGE, Stephen Clayton, Leroy Cartledge, James PARKER JR., Stanley TERRY, TANCIA L. JAMES, and Bryan Sterling that was filed on May 23, 2018. A hearing was held on July 18, 2018. Brianna L. Schill appeared on behalf of Defendants South Carolina

Department of Corrections, Larry Cantledge, Stephen Clayton, Leroy Cantledge, James Parker Jr., Stanley Terry, Tancia L. James, and Bryan Sterling. Plaintiff appeared pro se. For the reasons discussed below, the court grants the motion to dismiss.

First, plaintiff has failed to properly serve any of these Defendants. see page 1 of 3, lines 1 - 28 OF ORDER GRANTING DEFENDANTS MOTION TO DISMISS.

(2). Plaintiff did not comply with the requirements of the rules. On June 20, 2017, plaintiff mailed his summons and complaint to Attorney General Alan Wilson by certified mail. Plaintiff did not deliver his summons and complaint to the South Carolina Department of Corrections, nor did plaintiff attempt to otherwise serve his summons and complaint on any of the other Defendants. At the hearing, plaintiff admitted that he only attempted to serve his summons and complaint on Attorney General Alan Wilson because he believed that Attorney General Alan Wilson could inform all of the other Defendants of his lawsuit. This court finds that plaintiff has failed to properly serve his summons and complaint on Defendants as required by Rule 4 of the South Carolina Rules of Civil Procedure, and accordingly, this court dismisses this case as to all remaining Defendants. see page 2 of 3, lines 7 - 16 OF ORDER GRANTING DEFENDANTS MOTION TO DISMISS.

(3). Plaintiff has alleged that the individual defendants were acting in the scope of their duties as employees of the South Carolina Department of Corrections and has not alleged that any acted with actual malice, committed a crime of moral turpitude or with an intent to harm. Accordingly, plaintiff's claims against them

must be dismissed. see page 2 of 3, Lines 21 through page 3 of 3, Lines 1-2 of ORDER GRANTING DEFENDANT'S MOTION TO DISMISS.

(4). Plaintiff's second cause of action relates to an incident that plaintiff alleges occurred on February 3, 2014. Plaintiff's third cause of action identifies an incident that allegedly occurred on February 20, 2015. Since plaintiff did not file his complaint until May 25, 2017, these claims are barred by the two year statute of limitations imposed by the South Carolina Tort Claims Act, and accordingly, Defendant's Motion to Dismiss is granted. ■ For the foregoing reasons, Defendant's South Carolina Department of Corrections, Larry Cantledge, Stephen Clayton, Leroy Cantledge, James Parker Jr., Stanley Terry, Tarcia L. James, and Bryan Sterling's Motion to Dismiss is granted. This case is dismissed without prejudice. AND IT IS SO ORDERED. See page 3 of 3, Lines 11-20 of ORDER GRANTING DEFENDANT'S MOTION TO DISMISS.

(5). Third, this court finds that plaintiff's complaint has failed to state a claim against the South Carolina Department of Corrections. Plaintiff's complaint fails to allege that the South Carolina Department of Corrections is liable for any conduct alleged in this case and plaintiff did not allege that the South Carolina Department of Corrections acted in a grossly negligent manner as required under the South Carolina Tort Claims Act. See page 3 of 3, Lines 3-7 of ORDER GRANTING DEFENDANT'S MOTION TO DISMISS.

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SC Court of Appeals

THE SOUTH CAROLINA COURT OF APPEALS
CASE No. # 2019-001222

Tyrone Lamar Roberson, #191327

Plaintiff-Appellant,

Vs.

South Carolina Attorney General, Alan Wilson; "private party Defendants of Perry Correctional Institution," Warden Larry Cantledge; Associate Warden Stephen Clayton, "private party Defendants of McCormick Corrections Institution," Warden Leroy Cantledge; Associate Warden James Parker, Jr.; Lieutenant Stanley Terry; Nurse Tarcia L. James; "third-party Defendants South Carolina Department of Corrections;" State Budget and Control Board Committee, Commissioners of the Palmetto Unified School District No. #1 Board of Trustee Director, Bryan P. Stirling,

Defendants - Respondents

CERTIFICATE OF SERVICE BY MAIL

The undersigned Plaintiff-Appellant hereby certifies that a true copy of Amended Notice of Appeal in the above captioned case matter has been served upon the following Respondents via first class mail with pre-paid postage deposit into the United States Postal Service carrier to be delivered to: Stephanie H. Burton, Esquire 308 East Saint John Street Spartanburg, South Carolina 29302.

Signed this 6th DAY OF AUGUST 2019.

RESPECTFULLY SUBMITTED

Tyrone L. Roberson

Tyrone Lamar Roberson #191327
Lee Correctional Institution F-7 North 59A
990 Wisacky Highway
Bishopville, South Carolina 29010

cc.

Greenville County Office of the Clerk of Court
Amy Volley, SCDC

LEGAL MAIL ONLY

ROM. TYRONNE L. ROBERTSON #191327
Lee Correctional Institution F-7 North 59A
990 Wabacky Highway
Bishopville, South Carolina 29010

To: The South Carolina Court of Appeals
1220 Senate Street
Columbia, South Carolina 29201

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