

IN THE South Carolina Court
OF Appeals

RECEIVED

SEP 12 2019

September 10, 2019

SC Court of Appeals

Trey Williams, # 341036
respondent
~~petitioner~~

Case Number
2016-001553
motion for Appeal Bond/
motion to
Dismiss petition
per Rule 269
OF SCACR 0000

v.
State of South Carolina
Plaintiff,

The delay in Filing for rehearing by the
State/Notify respondent in this case is for
purposes of delay.

The motion for rehearing is for delay
purposes and is completely Non meritorious
clear and convincingly.

I Request An Appeal bond/Supplemental
Appeal Bond or any Bond so that I be
released until this case is Finally
Decided. (Please see South Carolina
supreme court case # 2019-000113) in
Deciding Appeal Bond.

Pg. 1 of 3

LEGAL MAIL
MAIL ROOM

I should be granted appeal bond because ① I Am Innocent, ② Always expressed my innocence ③ my only plea offered on trial transcript record is time serve to a lesser charge of ABHAND that I declined. ④ I turned myself in initially to get justice and I never had an adult criminal record or am I a flight risk. ⑤ I am able to live stable at a home, have a job and take online classes and go back to school as well as meet with adequate doctors to heal the physical damages I have suffered from being almost killed after my PCR was granted. ⑥ I have a pending law suit on SDC because of SDC officers/staff working with gangs to get me killed so I am stuck in a cell 24 hours a day for over a year while being violated mentally, physically.

Attached is my lawsuit pending and SDC grievance that proves I was beaten and stabbed many times, I need time to get full records that go along with this motion for bond. I was about to get a bond prior to trial but I went to trial, please allow me to get a bond or allow me to present evidence to meet bond.

Pg. 2 of 3

LEGAL MAIL
MAIL ROOM

I have A motion for production of medical records, statements, Reports, Recordings etc that prove A state wide prison hit on my head to be killed At Any prison I go.

The prison I Am At is under investigation For warden And staff running A criminal Ring, other institutions, murders etc. my motions Are pending/ Being Reviewed in Federal Court,

Zero physical evidence of me Being Guilty of A crime And FAUSE testimony WAS used to convict me By the state.

I have proof And I Request A Bond Hearing to present All evidence...
d/My witness

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

INMATE GRIEVANCE FORM

STEP 1

BRCI 0846-14

INMATE NAME: TREV - [unclear]
 SCDC NUMBER: 341036
 INSTITUTION: Kirkland
 HOUSING UNIT: Kirkland
 WORK ASSIGNMENT: V-4

OFFICE USE ONLY
 Grievance No. KCI 0950-16
 Code: General RCIS
 Policy _____
 Disc. Hear. _____
 Class. _____
 PREA _____
 Date Received 10/20/16/11/15/16
 IGC Initials JK / [unclear]

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 10-13-2016 At Broad River Correctional Institution I WAS SET UP TO BE GASED IN THE FACE AND KILLED. UNIT MANAGER CAPTAIN MCMURTREY OFFERED ME TO UNLOCK MY CELL AND TAKE ME TO THE EMERGENCY + TRAUMA UNIT AT FLEMING COUNTY HOSPITAL WHERE I WAS TREATED. IT IS A STATEMENT MADE FOR ME TO BE KILLED. OFFICERS ARE TO BE HELD ACCOUNTABLE AND I WILL BE IN AN INVESTIGATION FOR MY SISTER'S. SOMETHING NEEDS TO BE DONE. THIS IS A MOST URGENT MATTER. IT IS MUCH MORE TO THIS.

RECEIVED

SEP 12 2019

SC Court of Appeals

 Grievant Signature Date

ACTION REQUESTED: The two officers involved be fired and charged with CONSPIRACY AND ATTEMPT TO KILL. That I be transferred to my county jail for safety since my case is on the way.

ACTION TAKEN BY IGC: PROCESSED UNPROCESSED OTHER

****Forward to Broad River CI due to incident location. Grievance closed at KCI 10/31/16 K. Gipson****
 Fwd to BRI due to incident location

****Forward to Broad River CI due to incident location. Grievance closed at KCI 10/31/16 K. Gipson****

A copy of this grievance has been forwarded to police services for possible review due to the allegations made in this grievance. At some time in the future, you will be notified of the decision of this grievance.
 IGC Signature [Signature] Date 10/31/16

(CONTINUE ON REVERSE SIDE)

WARDEN'S DECISION AND REASON:

BRCI-0846-16

Inmate Williams, Trey #341036

You stated in the grievance that on October 13, 2016, while housed at Broad River Correctional Institution you were set up to be gassed in the face and to be killed. You stated that Unit Manager Captain McNut sprayed you in the face. Then, you stated that Lieutenant Clark unlocked your cell door and up to 80 inmates stabbed and beat you with a weapon. You further stated that you were rushed to the emergency trauma unit at Palmetto Health Hospital where you were treated. You also stated there is a hit on your head to be killed. Finally, you stated that the officers are behind this will be back at the institution shortly. Your case was referred to the Division of Police Services for review. Based upon the investigation, it was determined that you received multiple stab wounds to your back from inmates due to your cell door not being secured. You were instructed by Unit Manager McNut to go to your cell. As you were attempting to your cell, you were gassed by Unit Manager McNut with chemical munitions. Due to the amount of gas used, you were unable to see as unidentified inmates were hitting you. You threw some punches to defend yourself, but you do not believe that you hit Unit Manager McNut. Then, Sergeant Clark came to your cell and unlocked the door and left. Sergeant Clark heard a female voice say "you better get him this time". Several unidentified inmates entered your cell and assaulted you. You could not identify any of the inmates involved in the assault, however Unit Manager McNut was advising inmates to go to their cells for count. When she approached your cell, you began to use profanity at her and then you approached her with your fist clinched. Due to your actions, she had to administer chemical munitions to your facial area. You swung and hit her on the left side of her face. At this point, she became disoriented and was assisted off the wing. After leaving the wing area, Unit Manger McNut did not recall if she locked your cell door. Unit Manger McNut did not witness you being assaulted, however she was aware that you were stabbed and she did not observe the incident or who had stabbed you. Following the incident, you were seen and treated by medical staff for the injuries that you sustained from the assault. Due to the actions of the inmates involved in the incident, the necessary amount of force was used (gas) to gain control of the situation. Therefore the Division of Police Services deemed it necessary to Administratively Close your case

Therefore, your grievance is denied.

If you disagree with this Warden's Decision (Decision), you may file an appeal by completing SCDC Inmate Grievance Form 10-5A, provided to you while serving you this Decision, and placing it in the Grievance Box at your local correctional institution within five (5) days of your receipt of this Decision.

[Handwritten Signature] *9/27/19*
Warden Signature Date

- I accept the Warden's decision and consider the matter closed.
- I do not accept the Warden's decision and wish to appeal.

Grievant Signature Date

Served by: J. Francis 9/11/19
IGC Signature Date
RECEIVED

SEP 12 2019

INSTRUCTIONS FOR COMPLETING STEP 1 GRIEVANCE FORM SC Court of Appeals

1. An informal resolution shall be attempted prior to the filing of Step 1 by sending an Inmate Request to Staff Member (RTSM) form or Kiosk reference number to the appropriate supervisor. A copy of the answered RTSM must be attached to the grievance when the grievance is filed.
2. Complete each section in its entirety writing only in the space provided for inmate use. No additional pages will be permitted.
3. Only one (1) issue is to be addressed on each form.
4. Submit the completed form by placing it in the Grievance Box at your institution within eight (8) working days of the date on the RTSM response; policy grievances can be filed at any time. Disciplinary and Classification Review appeals must be submitted within five (5) working days of the hearing/review. Do not write in the space provided for the Warden's response.
5. If you are not satisfied with the Warden's decision, you may appeal to the appropriate responsible official within five (5) days of your receipt of the Warden's decision, by placing your Step 2 appeal form in the Grievance Box at your institution.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Trey Alexander Williams,)
)
Plaintiff,)
)
v.)
)
Captain McNutt, LT. Clark, Broad River)
Correctional, Lieber Correctional, Ms.)
Berch, Ms. Ford, SLED, McCormick)
Correctional,)
)
Defendants.)
_____)

Case No. 6:19-cv-01006-DCC

ORDER

RECEIVED

SEP 12 2019

SC Court of Appeals

This matter is before the Court upon Plaintiff's complaint alleging violations of his civil rights pursuant to 42 U.S.C. § 1983. ECF No. 1. In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2) (D.S.C.), this matter was referred to United States Magistrate Judge Kevin F. McDonald for pre-trial proceedings and a Report and Recommendation ("Report").

Plaintiff originated this case on April 3, 2019.¹ ECF No. 1. On April 12, 2019, he was directed to file certain documents to bring this case into proper form for further evaluation and possible service of process. ECF No. 7. Plaintiff has been sent two additional proper form orders and has received extensions of time to bring this case into proper form. ECF Nos. 13, 17, 23. He has continued to file documents and motions.

¹ See *Houston v. Lack*, 487 U.S. 266 (1988) (holding that a pro se prisoner's pleading is filed at the moment of delivery to prison authorities for forwarding to district court).

ECF Nos. 11, 12, 15, 20, 22, 26, 29, 30. However, to date, this action has not been brought into proper form. On July 22, 2019, Plaintiff filed motions for preliminary injunction and to voluntarily dismiss. ECF Nos. 31, 33. On July 25, 2019, the Magistrate Judge issued Reports with respect to both motions. ECF Nos. 35, 36. The Magistrate Judge advised Plaintiff of the procedures and requirements for filing objections to the Report and the serious consequences if he failed to do so. On August 1, 2019, Plaintiff filed motions to stay and for a preliminary injunction. ECF Nos. 38, 39. On August 8, 2019, he filed objections to the Reports. ECF Nos. 40, 41.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. See *Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a de novo determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The Court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. See 28 U.S.C. § 636(b). The Court will review the Report only for clear error in the absence of an objection. See *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” (citation omitted)).

As an initial matter, based on the filings received after the Magistrate Judge filed his Report recommending that Plaintiff’s motion to voluntarily dismiss be granted, it

appears that Plaintiff does intend to proceed with this action. Accordingly, the Court finds as moot Plaintiff's motion to voluntarily dismiss and the corresponding Report.

Turning to the first motion for preliminary injunction, the Magistrate Judge recommends denying the motion. The Magistrate Judge determined that because, at that time, Plaintiff had stated his intention to close the case, he could not demonstrate that he was likely to succeed on the merits. The Court respectfully declines to adopt this portion of the Report because Plaintiff's motion for voluntary dismissal has been found as moot.

The Magistrate Judge further stated that Plaintiff has not demonstrated that he is likely to succeed on the merits because he has provided nothing to substantiate the allegations contained in the complaint or the motion for preliminary injunction. In his objections, Plaintiff reiterates his unsupported allegations and requests that he be moved to another correctional institution. The Court agrees with the Magistrate Judge and adopts this portion of the Magistrate Judge's Report. *See Lal v. Felker*, C/A No. S-07-2060GEBEFB, 2010 WL 2925364, at *1 (E.D. Cal. July 26, 2010), *report adopted*, C/A No. S-07-2060 GEB EF, 2010 WL 3787011 (E.D. Cal. Sept. 24, 2010) ("Apart from plaintiff's unsupported allegations there is no evidence establishing that plaintiff is likely to prevail on his medical treatment claims, or that the injunction sought is necessary to preserve the court's ability to grant effective relief on those claims and that it is the least intrusive means for doing so."). Further, the Court agrees with the Magistrate Judge's analysis of Plaintiff's request to be moved to another correctional institution and incorporates that discussion by reference. *Olim v. Wakinekona*, 461 U.S. 238 (1983)

(holding that there is no constitutional right to be housed in a particular institution, at a particular custody level, or in a particular portion or unit of a correctional institution.).²

Plaintiff moves to stay this action to allow him to exhaust his administrative remedies. Plaintiff admits that he has not exhausted his claim through the administrative appeal process. 42 U.S.C. § 1997e(a) provides that no § 1983 action “shall be brought . . . until such administrative remedies as are available are exhausted.” Accordingly, this motion is denied.

Therefore, the Court **FINDS as MOOT** Plaintiff’s motion to voluntarily dismiss [33] and the Magistrate Judge’s corresponding Report [36]. The Court adopts in part and respectfully declines to adopt in part the Magistrate Judge’s Report [35] and **DENIES** Plaintiff’s motion for preliminary injunction [31]. Plaintiff’s second motion for preliminary injunction [39] is **FOUND as MOOT**. Plaintiff’s motion to stay [38] is **DENIED**.

As stated at the beginning of the Order, Plaintiff has not yet brought this case into proper form. He is directed to file all necessary documents within 30 days plus three days mail time. Failure to do so will subject this case to dismissal without prejudice for failure to comply with an Order of this Court pursuant to Federal Rule of Civil Procedure 41(b). In light of the numerous extensions that Plaintiff has received, no further extensions will be granted absent a showing of extraordinary circumstances. The Clerk of Court is

² Plaintiff’s second motion for preliminary injunction, while not identical, essentially restates the same facts and arguments. Accordingly, it is duplicative and is found as moot.

directed to remail a copy of the last proper form order [17] and any accompanying documents to Plaintiff along with a copy of this Order.

IT IS SO ORDERED.

s/ Donald C. Coggins, Jr.
United States District Judge

August 19, 2019
Spartanburg, South Carolina

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.

Other Orders/Judgments

6:19-cv-01006-DCC Williams v. McNut et al

KFM-Inmate

U.S. District Court

District of South Carolina

Notice of Electronic Filing

The following transaction was entered on 8/19/2019 at 12:57 PM EDT and filed on 8/19/2019

Case Name: Williams v. McNut et al

Case Number: 6:19-cv-01006-DCC

Filer:

Document Number: 43

Docket Text:

ORDER RULING ON REPORT AND RECOMMENDATION. The Court FINDS as MOOT Plaintiffs motion to voluntarily dismiss [33] and the Magistrate Judge's corresponding Report [36]. The Court adopts in part and respectfully declines to adopt in part the Magistrate Judge's Report [35] and DENIES Plaintiffs motion for preliminary injunction [31]. Plaintiffs second motion for preliminary injunction [39] is FOUND as MOOT. Plaintiffs motion to stay [38] is DENIED Signed by Honorable Donald C Coggins, Jr on 8/19/2019. (kric,)

6:19-cv-01006-DCC Notice has been electronically mailed to:

6:19-cv-01006-DCC Notice will not be electronically mailed to:

Trey Alexander Williams
341036
McCormick Correctional Institution
386 Redemption Way
McCormick, SC 29899

RECEIVED

SEP 12 2019

SC Court of Appeals

The following document(s) are associated with this transaction:

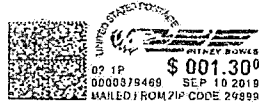
Document description:Main Document

Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1091130295 [Date=8/19/2019] [FileNumber=9216989-0] [774626f7993ccfd6a1a14f3dc7cc4bdf0618a6dfe65879700d28a0cc1e7371e0d0e be1df523fa0f3ceb56bb47a5aad83462a85425126822549d5a5c1f30e78be]]

TREY Williams, # 341036
M.C. In. Rite # 69
386 Redemption Way
McCormick, SC 29899



The South Carolina Court of Appeals
1220 SENATE STREET
COLUMBIA, SC 29201

RECEIVED

SEP 12 2019
SC Court of Appeals

