

STATE OF SOUTH CAROLINA  
COUNTY OF GREENVILLE

David Richard Walker, Jr.,  
SCDC No. 294267, Plaintiff,

Vs

Joshua Lawter, et. al.,  
Defendants.

IN THE COURT OF COMMON PLEAS

CIVIL ACTION No. 2019-CP-23-01421

MOTION FOR RECONSIDERATION  
PURSUANT TO RULE 59 (E)

RECEIVED

OCT 11 2019

SC Court of Appeals

In The Capacity of Pro Se, David Richard Walker, Jr. Plaintiff does  
Hereof, move the Honorable Miller, Judge accordingly to allow a(ny)  
reconsideration according to South Carolina Rules of Civil Procedure —  
Rule 59(e) — to reconsider i.e. remend, void, amend, etc his judgement(s)  
ordered in the open-court on June 25, 2019, via the motion(s) filed by  
the defendant i.e. motion to dismiss.

The Plaintiff Hereof moves on and according/accordingly to the  
following grounds, set to the court to show moreover grounds for —  
and of this motion. The Plaintiff shows:

### GROUND(S)

1. The Plaintiff has severe mental distress, and issues — that caused  
causes the plaintiff to be deficient in comprehending / understanding, and reading /  
writting, etc. and, thereof, caused the plaintiff to (miss) be deficiency of certain  
argument(s), issues, law — etc. that he wished to bring forth as issue(s), or (and)  
argument to the issues (argued) and, meant to inform the court (of) to this.  
So the Court <sup>will/can</sup> give and allow a(n) little more time and consideration(s) to the gave  
and provided / <sup>gave</sup> providing argument, statement, issues — behalfed — gave for or by plaintiff.

2. The Plaintiff has and was experiencing (Slight But Extreme), Health Issues i.e. medical — that rendered him sickly unhealth to be at Court and — litigating Prose — and providing statement(s), issues, concern(s), and — expressing argument(s) towards an argumental — motion.

3. The Plaintiff was provided a(n) Brief — written /<sup>a</sup> — and unfiled (By the defendant)(s) on June 25, 2019 — and the judge accepted this Brief even though it was not filed within court — provision, (and —) South Carolina Civil Rules and Procedure — and, the pro se plaintiff, (esp. as an un-experienced lawyer) was: (1) unable to object to this due to grounds set on this motion in ground(s) numbered 1, 2, and 3 (— 3 at unexperienced/unlicensed attorney/lawyer), (2) unable to research the law(s) within that brief (3) unable to reply to the grounds on that Brief.

4. The Plaintiff had filed priority motion(s) in this case for a(n) appointment of an Guardian Ad Litem (GAL) due to reason(s) set in (a)s — grounds numbered — One and two, on this motion — and others that should have been heard priority to dismissal of this case.

5. The Plaintiff had filed priority motion(s) in this case for a(n) appointment of a standby-Attorney due to all above reason(s)/ground(s) and — to assist plaintiff in hearings and trial (— on this motion etc'd) in this case, due that he doesn't hold full health, and is in poor health, esp. neurological — deficiency causing extreme deficiency in memory, understanding, comprehending, reading/writing, etc. So needed hereto and thereof assisted assistance in this case, and litigational — litigations by an (standby) Counsel.

6. SCOC took the writing pen of plaintiff (unable to take notes), (at hearing — extreme deficiency due to all grounds of plaintiff above.)

7. The Judge stated in open court that his sole ground(s) of dismissal was — the settings of Case "Al-Shabazz v State 338 3C 354, 527 S.E.2d 742 (2000) "Our Supreme Court made it clear that the — Administrative Law Court has subject matter jurisdiction over inmate claims of final decisions of SCDC in non-collateral and administrative matters —".

This cannot and was not proper or adequate, nor appropriate civil — (precedent)' precedence to: (1) litigate within this civil-case — and, (2) or, to dismiss ~~this~~ this civil-case (upon) on this/these grounds (precedence). (To dismiss on the court must dismiss an action/case upon proper grounds; those grounds must be adequate with the litigation). And,

The Court can only dismiss (any civil-action) on: ① failure to litigate (i.e. response, answer, etc.) ② failure to file with (adequate) cause(s) of — action (to the court/s) ③ failure to file in proper jurisdiction ④ failure to — serve a(ny) litigant with summons/s, complaint/s, or filings (i.e. motions — etc.) (Set forth in Court's Rules and Procedure; (Provisions)).

The Court held no-juris to dismiss the plaintiff's civil suit. This court (Judge Miller) needed a law (juris) to dismiss on (upon), and nor held one — or (and) presented one that is substantive to the law(s) of South Carolina Juris (Law).

And, Thereof — the court (Judge Miller) must ensure proper due-process/due-processes to the law — laws and Juris — (summons) etc.; (to plaintiff — and, to plaintiff's claim of claims' of violation, deprivation, and — preventions to (towards/of) right(s) substantive to Civil-right, and — to (towards/of) Constitutional and Human Right(s) provisional, and substantive to (by/of) (towards) (at), Both federal and state Constitution).

Further, It was (uncivil and unconstitutional) violative to towards /art : (1) plaintiff's civil-right of equal protection to the — (juris) law (2) plaintiff's civil-right to equal /actual /appropriate — arbitration, litigation, and due-process /due-processes (3) plaintiff's — civil-right to equal /actual /appropriate due-process /due-processes to litigate (fully /thoroughly) through a(ny) litigation (civil-litigation) — i.e. — due-process /due-processes to the court(s) (and — through the court). — When this Court dismisses /dismissed on the actual or/and — (precedence) substantive-precedent litigated and structured within the South Carolina Supreme Court Case (i.e. Civil-case Al-Shabazz v State).

8. This Court /The Court cannot (hold) with-hold, structure, or/and process — un-civil rulings by a(ny) judge, (or court) (esp. its on).

9. The plaintiff is entitled to appropriate court structure, and — appropriate court rulings, and appropriate court (substantive) (due) process (i.e. equal, appropriate, and actual /and adequate) by the court and its officials to include judge (s) (Miller) and by civil-right (within) all processes /rulings /etc.

10. The Case "Al-Shabazz v State" expresses (precedence) that a(ny) court shall acknowledge that matters pertaining to inmate's classification, custody, matters should go before the ALC (Law Court). This Cause of Action is neglect, violation to (towards) civil-rights, and for compensatory and punitive damages due to the (action's) neglects /violations by the defendant(s) towards (to/at) plaintiff and, thereof and most-deficiently not an cause-of-action that is pertaining to those matters. (i.e. classification, custody, — matters (i.e. precedence of Al-Shabazz v State, supra).

11. The Court should have not dismissed the pro se Complaint/claim of plaintiff accordingly to precedence/precedent — as in the case of *Martinez v Garden*, 430 F.3d 1302 (10th Cir 2005) citing an — dismissal is not proper unless — "the court reviews a decision to dismiss for failure to state a claim and dismissal of a pro se complaint... is proper only where it is obvious that the plaintiff cannot prevail on the facts he alleged and it would be futile to give him an opportunity to amend." In addition to construing a pro se — Complaint as true and construe those allegations, and any reasonable inferences that might be drawn from them, in the light most favorable to the plaintiff.

12. The defendants actions indicated seizure unlawfully and unlawful imprisonment to (at/towards) plaintiff and civilly are to be held civilly responsible for their ~~actions~~ negligence actions/facts and demeanors — that caused extreme deprivation/violation/harm(s) to plaintiff and his integrities i.e. Civil/Physical integrity (ies) by Civil-law and this court must process and proceed according/ accordingly with (to) Civil law and Civil provisions (Precedence(s)) that are substantive and indicated within (in/by) Civil (Juris) Law indicated by precedences esp. by US Supreme Court / SC Supreme Court Etc. — And (shouldn't) could not have dismissed this Civil Suit — (• lawful •) lawfully due to civil law and civil precedence(s) and, Civil-provision(s) to this court and the Courts judge.

13. Motion made pursuant to Rule 12(b) The Court is required to accept the pleading facts as true and resolve any factual issues in a manner most favorable to plaintiff — etc. prior to dismissal — etc.

104. The Plaintiff has fourteen pending case in the state and — Federal Court(s) — and wished to file a(n) brief to the court. But has been with-out access to an law-library (law library record-set) (i.e. Electronically-stored / Automated Content e.g. precedence / caselaw / rules & procedure) for over an month, and was most deficiently unable to file, prepare, litigate a(n) Brief(s) due to denial (and, deficient) to a(n) — law library, even though — the plaintiff's civil-right indicate such accommodation, to ensure that he could (would/should) have appropriate — view, knowledge, text, etc of the United States and states juris and law to file litigation (Brief/s).

— Due to the Above this court shall reconsider its ruling(s).

And, On the Grounds Above (this court shall immediately hold the) (rulings of the court's judge(miller) un-civil and inappropriate, and), shall also schedule an — hearing (with both parties) within the court's docket, to hear the argument / testimonies of both sides, esp. plaintiff (on this motion).

~~David Richard Walker, Jr. Pro Se~~  
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JUNE 26, 2019

NOTE: Please Take Notice / Be Advised — that at any and all times when the plaintiff expressed / used the term — "Brief" it meant the defendant's "memorandum in Support of Motion To Dismiss" when expressed towards defendant. When expressed with-expression to plaintiff's Brief it meant a(n) "memorandum in support opposition to motion to Dismiss" By plaintiff.