

Common Plea decision Exb. 00

STATE OF SOUTH CAROLINA RECEIVED IN THE COURT OF COMMON PLEAS
COUNTY OF FLORENCE MAR 30 2020 TWELFTH JUDICIAL CIRCUIT
C/A #2019-CP-21-03521

Edward Spears,
SC Court of Appeals
Plaintiff,
vs.
Michael S. Hopewell,
Defendant.

ORDER

This matter is before the court pursuant to a Motion to Reinstate to Magistrate's Court filed by the Plaintiff and a Motion to Dismiss the Plaintiff's Complaint filed by the Defendant. Both motions were heard on February 12, 2020. The Plaintiff appeared *pro se* and the Defendant was represented by Michael C. Abbott, Esquire. For the reasons set out below, the Plaintiff's motion is denied and the Defendant's motion is granted.

This action was commenced by the filing of a Summons and Complaint in Florence County Magistrate's Court on August 28, 2019. In the original Complaint, the Plaintiff stated only that "Plaintiff is filing for obstruction of justice." No factual basis or recitation of events, dates, occurrences or even a timeframe was included.

Thereafter, in an Answer filed on September 27, 2019, the Defendant included a Motion to Dismiss based on Plaintiff's failure to allege any act, date, etc. in the original Complaint.

The Plaintiff filed an Amended Complaint on November 21, 2019 which alleged that, on August 15, 2016, the Defendant:

"deceive & deberlyaty brought false & untrue documents in an default hearing in violation of U.S. Codes 1505-1518." [Sic]

The Defendant, on December 5, 2019, filed an Answer and Counterclaim to Plaintiff's Amended Complaint. It included Motions to Dismiss for failure to state facts sufficient to constitute a cause of action and commencement beyond the statute of limitations. The Counterclaim contained causes of action for Abuse of Process, Defamation and violation of the South Carolina Frivolous Proceedings Sanctions Act. In the Counterclaim, the Defendant sought damages in excess of Seven Thousand Five Hundred and no/100 (\$7,500.00) Dollars and for punitive damages causing the Magistrate's Court to transfer the case to the Florence County Court of Common Pleas because the alleged damages exceeded its jurisdiction.

The damages sought in the counterclaim exceed the jurisdictional limit for Magistrate's Court. Therefore, the case is properly before this Court pursuant to Rule 9(b) of the Magistrate's Court rules. As such, the Plaintiff's Motion to Reinstate the case to Magistrate's Court is denied.

The Plaintiff filed this action seeking relief for a cause of action entitled "Obstruction of Justice." There is no such civil cause of action under South Carolina law. Therefore, the Defendant's Motion to Dismiss pursuant to Rule 12(b)(6) is granted. Additionally, the Plaintiff alleges in his Amended Complaint the Defendant obstructed justice on August 15, 2016. The Plaintiff filed his Complaint on August 28, 2019, more than three years after the date upon which the alleged transgression occurred. Therefore, pursuant to S.C. Code §15-3-350, the general tort statute of limitations, the case must be dismissed as having been commenced beyond the allowed time.

THEREFORE, IT IS HEREBY ORDERED that the Plaintiff's Motion to Reinstate the Case to Magistrate's Court is DENIED.

IT IS FURTHER ORDERED that the Defendant's Motion to Dismiss the Plaintiff's Complaint is hereby GRANTED and the Plaintiff's Complaint is hereby dismissed with prejudice.

AND IT IS SO ORDERED.



Florence Common Pleas

Case Caption: Edward Spears VS Michael S Hopewell
Case Number: 2019CP2103521
Type: Order/Dismissal

So Ordered

s/ The Honorable Michael G. Nettles #2140

STATE OF SOUTH CAROLINA)

COUNTY OF FLORENCE)

Edward Spears,)

Plaintiff,)

vs.)

Michael S. Hopewell,)

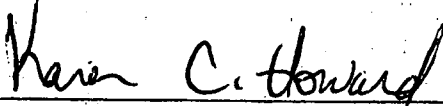
Defendant.)

IN THE COURT OF COMMON PLEAS
TWELFTH JUDICIAL CIRCUIT
C/A #2019-CP-21-03521

**CERTIFICATE
OF SERVICE**

The undersigned, a Legal Assistant for Abbott, McKissick & Hopewell, LLC, does hereby certify that she deposited in the United States Mail the Order of Dismissal dated February 20, 2020, the same being addressed to those persons whose names and addresses appear below, this being done on February 20, 2020, and that sufficient postage was affixed thereto:

Mr. Edward Spears
503 Roughfork Street
Florence, SC 29501



KAREN C. HOWARD
Legal Assistant to Michael C. Abbott