

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

APPEAL FROM GREENVILLE COUNTY

Court of Common Pleas  
Alex Kinlaw, Jr., Circuit Court Judge

\_\_\_\_\_  
Case No. 2019-CP-23-04659  
\_\_\_\_\_

John Douglas Alexander, #194748, Appellant

v.

John Doe, Director of The Craft-Farrow  
Hospital; and The State of South Carolina,  
Defendants,

of whom, John Doe, Director of The  
Craft-Farrow Hospital, is the

\_\_\_\_\_  
Respondent

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SC Court of Appeals

INITIAL BRIEF OF RESPONDENT

\_\_\_\_\_  
Logan Y. Royals  
S.C. Department of Mental Health  
P.O. Box 485, 2414 Bull Street  
Columbia, SC 29202  
(803) 898-8557

Attorney for Appellant

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ISSUE ON APPEAL

DID THE CIRCUIT COURT ERR IN GRANTING SUMMARY  
JUDGMENT TO RESPONDENT?

## STATEMENT OF THE CASE

This matter was commenced by Appellant filing a Summons and Complaint on August 12<sup>th</sup>, 2019 in the Greenville County Court of Common Pleas, seeking to compel production of certain medical records and making various motions for Summary Judgment and Default Judgment. Respondent filed its Answer on November 1<sup>st</sup>, 2019, relaying that Respondent did not have possession of any responsive documentation and making a motion for Summary Judgment based on a lack of responsive documentation. On November 14<sup>th</sup>, 2019, Appellant Served an Amended Complaint in response to Respondent's Answer.

A hearing on both parties' motions was held on December 19<sup>th</sup>, 2019, before the Honorable Alex Kinlaw, Jr., Circuit Court Judge. Following the hearing, Judge Kinlaw granted Respondent's motion for Summary Judgment and denied or held moot all of Appellant's motions. On January 16<sup>th</sup>, 2020, Appellant filed a Motion to Alter or Amend Judgment. Judge Kinlaw denied this motion on January 29<sup>th</sup>, 2020. Appellant served a Notice of Appeal on Respondent on March 10<sup>th</sup>, 2020, and served a revised Notice of Appeal on April 1<sup>st</sup>, 2020. Appellant then served his Initial Brief on April 15<sup>th</sup>, 2020.

## STATEMENT OF FACTS

The following facts are contained in the record before this Court, including the Pleadings and the lower court order.

Appellant John Douglas Alexander is a *pro se* litigant currently incarcerated at Perry Correctional Institution in Pelzer, South Carolina. Respondent John Doe, Director of the Craft-Farrow Hospital is the former Director of the Crafts-Farrow Hospital operated by the South Carolina Department of Mental Health. No Director of the Crafts-Farrow Hospital exists today, and the Crafts-Farrow Hospital no longer treats any patients. This dispute involves Appellant's attempt to obtain medical records that are no longer in the possession of the South Carolina Department of Mental Health.

Based on hospital registers, Appellant was a patient of the Crafts-Farrow Hospital in 1981. At some point thereafter, SCDMH destroyed Appellant's medical records pursuant to the Physicians' Patient Records Act. SC Code Ann. §44-115-120 (2018). The only remaining physical record of Appellant's treatment at Crafts-Farrow Hospital is a register of admission and discharge dates as required by South Carolina medical record retention regulations. S.C. Code Ann. Regs. 61-16.1107 (A) (2) (Supp. 2019).

## STANDARD OF REVIEW

"In an action at law, on appeal of a case tried without a jury, the findings of fact of the judge will not be disturbed upon appeal unless found to be without evidence which reasonably supports the judge's findings." Townes Assocs., Ltd. v. City of Greenville, 266 S.C. 81, 86, 221 S.E.2d 773, 775 (1976). Thus, this court must affirm if there is any evidence to support the trial court's findings.

## ARGUMENT

THE CIRCUIT COURT DID NOT ERR IN GRANTING SUMMARY JUDGMENT TO RESPONDENT BECAUSE APPELLANT'S AMENDED COMPLAINT DOES NOT SET FORTH A CAUSE OF ACTION FOR WHICH RELIEF CAN BE GRANTED.

The lower court did not err in granting summary judgment to Respondent, as Appellant's Amended Complaint does not set forth a cause of action that can be acted upon by Respondent.

When a party makes a motion for judgment on the pleadings using the defense of failure of the pleading to state facts sufficient to constitute a cause of action for which relief can be granted, the motion should be treated as one for summary judgment and disposed of as provided in South Carolina Rules of Civil Procedure Rule 56. (Rule 12(b), SCRCP).

Summary judgment is appropriate when it is clear that there is no genuine issue of material fact. (Rule 56(c), SCRCP). In determining whether any triable issue of fact exists, the evidence and all inferences which can reasonably be drawn from the evidence must be viewed in the light most favorable to the non-moving party Queen's Grant II Horizontal Prop. Regime v. Greenwood Dev. Corp., 368 S.C. 342, 356 628 S.E.2d 902, 910 (2006); (Order P. 3, citing from Summer v. Carpenter, 328

S.C. 36, 42 492 S.E. 2d 55, 58 (1997). Summary judgment is therefore appropriate if the court determines that there is no issue of material fact as to whether Appellant's complaint sets forth a cause of action for which relief can be granted when viewing the evidence in the light most favorable to Appellant.

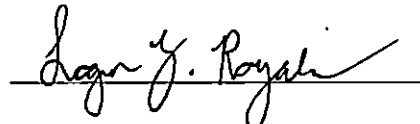
To the extent that the relief sought is pertinent medical records, the parties to this appeal are not in disagreement about whether such relief can be granted. Respondent relays that the records have been destroyed in its Answer. Moreover, Appellant notes that he would not have "initiated his Complaint had SCDMH accurately informed [Appellant] that his records/ files had been destroyed" within his purported Amended Complaint. Given that accord, there is no material dispute as to whether or not the desired relief can be granted to Appellant.

## CONCLUSION

The circuit court did not err in granting Respondent summary judgment, as there is no genuine issue of material fact regarding whether the sought relief can be granted. The physical records sought as relief have been destroyed, and their production as relief under this cause of action is a physical impossibility. Moreover, Appellant has failed to identify any statute or regulation that would make destruction of the records grounds for an action. All evidence in the record supports the Trial Court's granting of summary judgment for Respondent.

Based upon the facts and applicable law as explained above, Respondent asks that this Court uphold the lower court granting of summary judgment for Respondent.

Respectfully submitted,



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Department of Mental Health  
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May 22, 2020

Columbia, South Carolina

**PROOF OF SERVICE OF INITIAL BRIEF OF RESPONDENT**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY  
Court of Common Pleas

Alex Kinlaw, Jr., Circuit Court Judge

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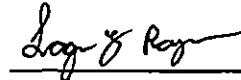
Appellant.

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**PROOF OF SERVICE**

I certify that I have served the Initial Brief of Respondent on John Douglas Alexander, #194748 by depositing a copy of it in the United States Mail, postage prepaid, on May 22nd, 2020, addressed to Perry Correctional Institute, 430 Oaklawn Road, 1B121, Pelzer, SC 29669.

May 22nd, 2020



Logan Y. Royals  
PO Box 485, 2414 Bull Street  
Columbia, South Carolina 29202  
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Attorney for Appellant



*State of South Carolina*  
*Department of Mental Health*

**MENTAL HEALTH COMMISSION:**

L. Gregory Pearce, Jr., Chair  
Louise Haynes, Vice Chair  
Alison Y. Evans, PsyD  
Bob Hiott

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**Kenneth M. Rogers, MD**  
State Director

May 22, 2020

The Honorable Jenny Abbott Kitchings  
Clerk of the South Carolina Appellate Court  
1220 Senate Street  
Columbia, South Carolina 29201

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RE: John Douglas Alexander #194748 v. John Doe  
Appellate Case No.: 2020-000274

Dear Ms. Kitchings:

Please find enclosed the Initial Brief of Respondent and Proof of Service in the above referenced matter. These documents are being filed in accordance with the "Operation of the Appellate Courts During the Coronavirus Emergency" Order dated March 20<sup>th</sup>, 2020, section (1)(1). If you have any questions or concerns, you may contact me at (803) 898-8557.

Thank you for your assistance and attention to this matter.

Sincerely,

Logan Y. Royals  
Staff Counsel  
SCDMH Office of General Counsel

cc: John Douglas Alexander, #194748

Enclosures

**MISSION STATEMENT**

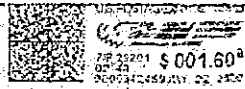
To support the recovery of people with mental illnesses.



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South Carolina  
Department of Mental Health  
2414 Bull Street • Columbia, SC 29201

The Honorable Jenny Abbott Kitchings

P.O. Box 11629

Columbia, SC 29211

