

South Carolina Court of Appeal
1220 Senate Street
Columbia, S.C. 29201

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OCT 19 2020

SC Court of Appeals

Case# 2016-CP-400-7010

Henry Lee Bradley #141371
Appellant

v.

South Carolina Department of Correction
Respondent

Motion For
Appointment of Counsel

Appellant moves for an order appointing counsel to represent him in this case in support of this motion Appellant states

1. Appellant is unable to afford counsel, he has requested leave to proceed in forma pauperis.
2. Appellant imprisonment will greatly limit his ability to litigate. The issues involved in this case are complex and will require significant research and investigation. Appellant has limited access to the law library and limited knowledge of the law.
3. A trial in this case will likely involve conflicting testimony and counsel would better enable Appellant to present evidence and cross examine witnesses.

October 16, 2020

Henry Lee Bradley
Henry Lee Bradley #141371
B.R.C.I. MA-128
4460 Broadriver Road
Columbia, S.C. 29210

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SC Court of Appeals

Explain The basis of appeal.

Case# 2016-CP-400-7010

Henry Lee Bradley #141371

Appellant.

V.

South Carolina Department of Correction
Respondent.

BACKGROUND

on May 26, 2013 Appellant was stabbed by a fellow inmate. on May 18, 2015 Appellant filed a law suit against The S.C. DEPT of Corrections and its officers for gross negligence for failing to protect him. Case# 2015-CP-400-3008 Again it must be noted that Appellant filed this complaint eight (8) days before the two (2) year statute of limitations had expired.

on December 7, 2015 The Respondent filed a motion to dismiss alleging that the complaint was served improperly. on July 22, 2016 Judge Manning issued an order dismissing the case for lack of service.

The dismissal was without prejudice. on November 22, 2016 Appellant filed a second complaint based on the same

facts alleged in The First Complaint Case# 2016-CP-400-7010.

on January 5, 2017 The defendant submitted a motion to dismiss The Second Complaint solely on the issue of statute of limitation being exceeded. on April 6, 2017 a hearing was held on the defendant's motion to dismiss before Judge Jean Toal. Judge Toal denied The defendant's motion to dismiss concluding that The Second Complaint is in accord with Judge Mannings's ruling.

doing Judge Jean Toal motion hearing A New Case# was giving Case# 2016-CP-400-7010. on March 14, 2018 The defendant submitted a motion for summary judgment for The Second Complaint being time barred and for Plaintiff not having evidence of gross negligence. on September 28, 2018 The defendant submitted a memorandum in support of The March 14, 2018 summary judgment.

Appellant's "response" to defendant's motion for summary judgment.

Statute of Limitations

On The Statute of Limitation's issue, Appellant argues that he filed his 1st Complaint on May 18, 2015 (8 days before The Statute of Limitations had run) The Complaint was dismissed without prejudice July 22, 2016

IT IS SETTLED IN SOUTH CAROLINA THAT WHEN AN ACTION IS DISMISSED WITHOUT PREJUDICE, THE STATUTE OF LIMITATIONS WILL BAR A SUBSEQUENT SUIT IF THE STATUTE RUNS IN THE INTERIM Norris v. State 335 S.C. 30, 33, 515, SE2d 523, 524-25 (1999).

HOWEVER, IF A DEFENDANT CONSENTS TO THE ACTION BEING DISMISSED WITHOUT PREJUDICE AFTER THE STATUTE OF LIMITATIONS HAD RUN, THE DEFENDANT IS ESTOPED FROM ASSERTING THE DEFENSE OF STATUTE OF LIMITATIONS WHEN APPELLANT REFILED HIS COMPLAINT Carter v. State, 337 S.C. at 18, 522 SE2d at 342-43 (1999).

FURTHERMORE, THE DEFENDANT VIOLATED RULE 60 OF THE S.C. CIRCUIT COURT RULES OF PRACTICE BY RAISING THE STATUTE OF LIMITATIONS AGAIN AFTER IT WAS DENIED BY JUDGE TOAL AT THE JULY 6, 2017 MOTION HEARING. JUDGE TOAL CLEARLY STATED IN HER ORDER THAT THE 2ND COMPLAINT IS IN ACCORD WITH JUDGE MANNING'S RULING.

RULE 60 STATES: WHEN AN APPLICATION FOR AN ORDER IS MADE TO ANY JUDGE AND SUCH IS REFUSED IN WHOLE OR IN PART, NO SUBSEQUENT APPLICATION UPON SAME SET OF FACTS SHALL BE MADE TO ANY OTHER JUDGE. AND IF UPON ANY SUCH SUBSEQUENT APPLICATION AN ORDER IS MADE, THE ORDER SHALL BE REVOKED. RULE 60, S.C. CIRCUIT COURT RULES OF PRACTICE.

GROSS NEGLIGENCE

Appellant asserts that there is evidence of gross negligence. In their memorandum in support of Summary Judgment, the defendant misconstrued the facts.

The dormitory where Appellant is housed consists of 2 wings, Side "A" left side, and Side "B" right side. Each wing has its own officer with keys to secure their wing doors. The officers main duty is to prevent inmates living on Side "A" from being on Side "B" and Visa-versa. Each wing has its own color code, and this color code is attached to each inmate (ID) to identify which wing the inmate lives on.

Furthermore, the entrance into each wing must be locked at all times, except for movement on the prison yard and for inmate proceeding on the recreational yard.

On the day of the incident (officer on the left side) permitted the perpetrators who lived on the right to enter the left side where Appellant lives. This in turn allowed the perpetrators to attack Appellant after the incident occurred. The trespassing inmates was returned to their proper wing (right side) and the dormitory and both wings was secured by both officers.

UPON Securing The Wins, APPELLENT was free from any concern regarding any more eminent danger to his life. APPELLENT was immediately transported to The Local hospital to be treated for his stab wounds.

UPON released from The hospital The prison administration transferred APPELLENT to another dormitory for his safety and to recuperate. It must be noted that prior to this May 26, 2013 incident, APPELLENT informed several high ranking staff members of The eminent danger to his life in The Dept. of Corrections.

APPELLENT asserts that there is evidence of gross negligence.

Respectfully Submitted

Date. October 11, 2020

Henry Lee Bradley

Henry Lee Bradley #141371

BRCI MA-128

4460 Broadriver Road

Columbia, S.C. 29210

mu 169 Broad River

INMATE TRUST FUND ACCOUNT REPORT for SOUTH CAROLINA COURT FILING FEES

INSTRUCTIONS TO INMATE: Complete top portion then give to your mailroom. When returned from Accounting, you must mail this form with any payment to the Court.

By signing my name below, I am asking the Financial Accounting Office of the South Carolina Department of Corrections to complete this report. In accordance with SC Code of Laws §24-27-100 and 150, I authorize payment of the full filing fee. If I have insufficient funds in my account at this time to pay the court's full filing fee, I authorize SCDC to deduct the initial and subsequent payments until payment is completed.

RICHLAND COUNTY
FILED
OCT 18 AM 11:17
CLERK OF COURT
W. H. SPENCER
SOUTH CAROLINA

INMATE NAME (print): Henry Lee Bradley

SCDC# 141371

INMATE SIGNATURE: Henry L. Bradley

I plan to file this action in the SC County of RICHLAND COUNTY

The section below is for SCDC - Financial Accounting Branch's use ONLY.

- (1) Total deposits to inmate's account for preceding six months' period* \$ 153.26
- (2) Twenty percent (20%) of line-1 \$ 30.65
- (3) Account balance - current date \$ 15.22
- (4) PAYMENT AMOUNT **
(lesser of line 2 or line 3)
Enclosed check # _____ \$ 0

SCDC-FINANCIAL ACCTG.
2016 OCT -3 PM 2:23

****NOTE to COURT:** If payment is for partial fee, Court must notify SCDC once case is accepted and filed. Send notice with case # and balance owed to address below. SCDC will NOT process any additional payments until notification is received from Court.

South Carolina Department of Corrections
Financial Accounting - Room 234
PO Box 21787
Columbia, SC 29221-1787

*Admission date is noted here if inmate incarcerated less than six months / /

M. Bowen
Prepared by Financial Accounting Branch - SCDC

10/12/14
Date

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)
Henry Lee Bradley #141371)
v.)
South Carolina Dept.)
of Corrections)

IN The Court of Common Pleas
Case# 2016-CP-400-700

Proof of Service

The above named Plaintiff hereby certifies that he has served one copy of his request of an order sign by Hon. Keith Kelly AUGUST 15, 2019. Copies been send to each Hon: R. Keith Kelly P.O. Box 2766 Columbia, S.C. 29202-2766 and upon the Clerk of Court Jeanette W. McBride P.O. Box. 2766 Columbia, S.C. 29202-2766 by placing one copy each in the U.S. mail prepaid.

JULY 27, 2020

Henry Lee Bradley #141371

State of SC County of Richland
The foregoing instrument was acknowledged before me
this 27th day of July, 2020.
by [Signature] Notary Public
My Commission Expires 7-27-2026

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OCT 19 2020

SC Court of Appeals

From: Henry Lee Bradley #141371
B.R.C.I. MA-191
4460 Broadriver Rd.
Columbia, S.C. 29210

IN The Court of Common Pleas
Case# 2016-CP-400-7010

Jeanette W. McBride
Clerk of Court
Richland County
P.O. Box 2766
Columbia, S.C. 29202-2766

Requesting Order
Sign AUGUST 15, 2019
By Hon: Keith Kelly

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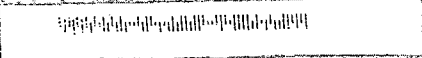
SC Court of Appeals

Dear Ms. McBride,

I'm writing to request for an order I should had gotten
AUGUST last year from Judge R. Keith Kelly. I have been
waiting on this order to begin my next step to my
Notice Appeal. I had file a motion to amend Rule 59-E
and Rule 43-L. I have file that Motion July 25, 2019,
my research I found that Judge Keith Kelly sign that
order AUGUST 15, 2019. if so I'm requesting a copy of
his order I to receive. Thank for your time with this matter.

State of SC County of Richland
The foregoing instrument was acknowledged before me
this 27 day of July, 2020.
by [Signature] Notary Public
My Commission Expires 07-27-2026

[Signature]
Henry Lee Bradley #141371



From: Henry Lee Bradley 14/371
B.R.G.I. MA-128
4160 Broad River Road
Columbia, S.C. 29210



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OCT 10 2020
SC Court of Appeals

To: South Carolina
Court of Appeal
1220 Senate Street
Columbia, S.C. 29201

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OCT 15 2020
BRCI
MAILROOM