

The State of South Carolina
IN THE COURT OF APPEALS

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SC Court of Appeals

APPEAL FROM RICHLAND COUNTY
COURT OF COMMON PLEAS

R. Keith Kelly Circuit Court Judge

Case # 2016-CP-400-7010

S.C. DEPT OF CORRECTIONS

Respondent

V.

Henry Lee Bradley #141371

Appellant

INITIAL BRIEF

Date: June 3, 2021

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

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STATEMENT OF ISSUES ON APPEAL

1. Was the Dept of Corrections negligent in failing to protect appellant when they were informed before hand by appellant of his eminent danger?
2. Was appellant barred by the statute of limitations?

STATEMENT OF THE CASE

ON MAY 20, 2013 A/W WARDEN SUTTON WAS INFORMED BY CORRECTIONAL OFFICER L. AGRAVE AND P.I. PLANT SUPERVISOR LARRY THOMPSON, THAT APPELLANT BRADLEY, SAFETY AND LIFE IS BEING THREATENED BY S.C.D.C. INMATE ANTHONY SANDERS, AND THE THREAT IS CREDIBLE AND ACHIEVABLE. IT MUST BE NOTED THAT THIS CONVERSATION OCCURRED AT APPELLANT'S WORK AREA

ON MAY 20, 2013 A/W WARDEN SUTTON CAME TO P.I. AFTER SUTTON WAS INFORMED BY OFFICER L. AGRAVE AND PLANT SUPERVISOR LARRY THOMPSON OF APPELLANT BRADLEY BEING THREATENED OF HIS LIFE. AT THIS TIME APPELLANT BRADLEY PERSONALLY INFORMED A/W WARDEN SUTTON OF THE THREAT ON HIS LIFE FROM S.C.D.C. INMATE ANTHONY SANDERS, AND THE THREATS IS CREDIBLE AND ACHIEVABLE.

A/W WARDEN SAID SHE KNOWS THAT INMATE,

SHE THEN INFORMED APPELLANT THAT SHE WILL INFORMED THE MAJOR OF SECURITY, GREGORY WASHINGTON, OF THE MATTER. SHE LATER INFORMED ME THAT SHE DID.
RECORD P. 30.

ON MAY 26, 2013 SIX DAY'S AFTER APPELLANT BRADLEY HAD INFORMED THE A/W WARDEN OF THE THREATS OF HIS LIFE. APPELLANT BRADLEY WAS ASSAULTED, AND STAB BY ANTHONY SANDERS.

Before The assault on may 26, 2013 Inmate Sharod Frazier supplied a home made metallic Knife To Anthony Sanders knowing That APPELLANT would be The intended Victim. Also while The assault was occurring inmates Anthony Riggins and James Wilson held APPELLANT down while The Stabbing assault occurred. Before The assault, Correctional Officer Barbara Blunt allowed Inmate Anthony Sanders, Inmate Anthony Riggins, Inmate James Wilson To gain access into The wing where APPELLANT is housed S.C.D.C Policy Forbids Inmates From Crossing over, From one wing To another (Record p. 21-22)

ARGUMENTS # 1

The S.C. Department of Corrections was negligent in failing to protect Appellant when they were informed before hand by Appellant of his eminent danger.

The Respondent S.C. Dept. of Corrections, and its employees with its rank and official capacity violated its duty of care with GROSSLY NEGLIGENT manner in which they failed to protect the safety security, health and life of Appellant (Record p. 31-33).

Appellant filed a grievance after the assault, to add insult to injury the S.C. Dept. of Corrections then charged Appellant along with his assailants. This was done in order to negate their negligence in protecting Appellant.

Also this assault caused Appellant serious physical injuries, and emotional distress, with pain, and suffering now and in the future.

Appellant Henry L. Bradley, brought this action pursuant to South Carolina Code Annotated 15-78-10, ET, Sec. other wise known as the South Carolina TORT CLAIM ACT.

Wherefore Appellant Henry Lee Bradley respectfully pray that this court enter judgment in the following:

Award Compensatory damages in the following amounts:

200,000 against Respondent South Carolina Dept. of Corrections for the physical and emotional injuries from the stabbing while in their custody.

200,000 jointly and severally against each official in this Appellant in their official/individual capacity. A/W warden Sutton, Major Washington, official Blunt.

award Punitive damages in the following amount.

200,000 against Respondent South Carolina Dept. of Corrections.

100,000 jointly and severally against each official in this Plaintiff in their official/individual capacity. Sutton, Washington, Blunt.

Award Appellant Henry Bradley Gross Negligence

2000 wages in loss of work for one year out of work, suffering.

award Appellant Bradley # 1,500.00 in medical expenses, suffering.

ARGUMENTS #2.

The Lower Court was in error when it ruled that Appellant was barred by the statute of limitations
Conclusion.

It must be noted that Appellant filed this complaint in the lower court 8 days before the 2 year statute of limitations had run.

On July 22, 2016 Judge Manning issued an order dismissing the case for lack of service. The dismissal was without prejudice. (Record p. 1-5).

On November 22, 2016 Appellant filed a 2nd complaint based on the same facts alleged in the 1st complaint.

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On January 5, 2017 the Respondent submitted a motion to dismiss the 2nd complaint on the sole issue that the 2nd complaint exceeds the statute of limitations. On April 6, 2017 a hearing was held on the Respondent's motion to dismiss before Judge Jean Toal. Judge Toal denied the Respondent's motion to dismiss concluding that the 2nd complaint is in accord with Judge Manning's ruling. (Record p. 16)

On March 14, 2018 the Respondent submitted a motion for summary judgment for the 2nd complaint being time barred and for Appellant not having evidence of gross negligence. On September 28, 2018 the Respondent submitted a memorandum in support of March 14, 2018 summary judgment. (Record p. 17-18)

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 by Judge Manning on July 22, 2016 (14 months after the statute of limitations had run).

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 S.E.2d 523, 524-25 (1999) (Record p. 20-21)

APPELLANT argues that when the first action was dismissed without prejudice by Judge Manning 14 months had past after the statute of limitations had expired these pose the respondents is ESTOPPED from asserting the defense of statute of limitations when APPELLANT refiles his second complaint.

Carter v. State 337 S.C. at 18, 522, S.E.2d at 342-43 (1999)

Further more, the respondents violated Rule 60 of the S.C. Circuit Court Rules of Practice by raising the defence of 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. (Record p. 16) 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 the 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 Respondent, misconstructed 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. The officer's 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's (ID) to identify which wing the inmate lives on.

Further more, The entrance into each wing must be locked at all times except for movement on The Prison yard, and for inmates proceeding on The recreational yard.

on The day of The incident, officers Blunt (officers on The left side), permitted The perpetrators who lived on The right side 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), of The dormitory and both wing was secured by both officers (Record p. 36)

Conclusion.

Prison officials act with deliberate indifference when they ignore an obvious and serious danger when they was informed days ahead cause serious harm. Violation of The Eighth Amendment.

Prison officials act with deliberate indifference when they ignore policy when policy forbide inmate from crossing over. Through an unlock door. Cause APPELLANT injuries, and serious harm.

Violation of The Eighth Amendment.

Wherefore, APPELLANT respectfully pray
That This Court enter judgment as stated
other and further relief This Court deems
appropriate.

Respectfully

Henry Lee Bradley

HENRY LEE BRADLEY #141371

B.R.C.I. MA-128

4460 BROAD RIVER Rd.

Columbia, S.C. 29210

Date: June 3, 2021