

RECEIVED

AUG 30 2021

SC Court of Appeals

THE STATE OF SOUTH CAROLIA

In The Court of Appeal

APPEAL FROM DARLINGTON COUNTY

Court of Common Pleas

Roger E. Henderson, Circuit Court Pleas

Case No. 2020-000058

Angel Phillips,..... Appellant

V.

Hartsville Department of Social Services,.....Respondent

RECORD ON APPEAL

S/ANGEL D. PHILLIPS

INDEX

Order of Civil Action July 3 2019.....	1
Order to Dismiss November 15 2019.....	1
Complaint	1
Answer.....	1
Testimony	
Angel Denise Phillips.....	1
Joseph P. Mclean.....	1
Defendants Exhibits	
1.....	2
3	4
5.....	6
7.....	8
9.....	10
11.....	12
13.....	14
15.....	16
17.....	18
19.....	20
21.....	22
22.....	23
Certificate of Appellant.....	4

Order of Civil Action July 3, 2019

Order of Civil Action July 3, 2019, signature Angel D phillips

Order to Dismiss November 15, 2019

Order to Dismiss November 15, 2019, signature Judge Roger E Henderson

Complaint

South Carolina Office Of Inspector General, complaint confirmation No legally signature requested or asking for document legalized by a notary.

Answer

Case worker and the supervisor are no longer employed by SCDSS.

NO FUTHER ACTION WILL BETAKEN UNLESS ADVISED OTHERWISE PLEASE LET ME KNOW IF ADDITIONAL ACTIONS IS NEEDED

TESTIMORY OF Joseph P. Mclean

TRANSCRIPT PAGE (10 LINES 13-17) (PAGE LINES 14-20)

THE MOTION TO DISMISS IS A 12 (B) (6) MOTION BASED UPON THE STATUTE OF LIMITATIONS. THERE ARE OTHER GROUNDS FOR DISMISSAL BUT FOR TODAY WE'RE STAYING STRICTLY WITHIN THE PLEADINGS AND WE BELIEVE THAT THE SUIT WAS FILED TOO LATE. THAT'S BEYOND THE TWO-YEAR STATUE OF LIMITAIONS.NO VERIFIED CLAIM WAS FIED.SHE DID FILE A COMPLAINT WITH THE OFFICE OF INSPECTOR GENERAL FO THE STATE OF SOUTH CAROLINA AND THAT TOO, IS ATTACHED TO HER COMPAIN.T.BUT THAT DOES NOT MEET THE REQUIREMENTS OF A VERIFIED CLAIM THAT WOULD EXTEND THE STATUE FROM TWO YEARS TO THREE YEARS.

TESTIMORY OF ANGEL PHILLIPS

TRANSCRIPT PAGES 12 LINES 9-21

I WAS IN A BAD HORRIBLE CAR ACCIDENT.I WAS ONFUSED.I DIDN'T KNOW WHAT HAPPENED TO ME .THERE ARE ALL KINDS OF THINGS THAT HAPPENED DURING THIS TIME FRÀME WHEN I NEEDED MEDICAL ASSISTANT.I CAME HOME AND MY CHILD NEEDED ME .HE WAS NOT THERE.HE WAS BEING HELD .I MEAN ,I MEAN,MEDICALLY,MEDICALLY I WAS CONFUSED.I WAS TOTALLY CONFUSED.ANYONE IN MY POSITION WOULD BE TOTALLY CONFUSED.I EXPLAINED TO THE DSS WORKER,I DON'T UNDERSTAND OVER A CAR ACCIDENT WHY THIS ,WHY THIS IS HAPPENING.LIKE AND I DON'T UNDERSTAND HOW DO YOU TAKE AND GIVE MY CHILD TO THE SAME PERSON THAT MADE THIS COMPAIN.T WITH A FELON HUSBAND THAT HAD, YOU KNOW SO I DIDN'T UNDERSTAND ANY OF THIS.

CIVIL ACTION	<u>Defendant's Exhibit 1</u>
ALTERNATIVE DISPUTE RESOLUTION	<u>Defendant's Exhibit 2</u>
STATEMENT FROM ANGEL PHILLIPS	<u>Defendant's Exhibit 3</u>
STATEMENT FROM XAVIER PHILLIPS	<u>Defendant's Exhibit 4</u>
DETERMINATION FACT SHEET	<u>Defendant's Exhibit 5</u>
COMPLAINT (OIG) ANSWER TO THE COMPLAINT MADE ON SCSS IN HARTSVILLE	<u>Defendant's Exhibit 6</u>
COMPLAINT (OIG)	<u>Defendant's Exhibit 7</u>
COMPLAINT (OIG)	<u>Defendant's Exhibit 8</u>
COMPLAINT (OIG)	<u>Defendant's Exhibit 9</u>
NOTICE OF UNFOUNDED INVESTIGATIONS	<u>Defendant's Exhibit 10</u>
SAFETY PLAN	<u>Defendant's Exhibit 11</u>
SAFETY PLAN	<u>Defendant's Exhibit 12</u>
XAVIERS DR. REFERREAL	

Defendant's Exhibit 13

DARLINGTON COUNTY SHERIFF OFFICE AFFIDAVIT OF SERVICE OR NON-SERVICE

Defendant's Exhibit 14

ANGEL PHILLIPS OUTPATIENT SERVICES FOR PTSD

Defendant's Exhibit 15

TREATMENT SERVICES DATES

Defendant's Exhibit 16

ANGEL PHILLIPS MEDICATIONS

Defendant's Exhibit 17

WITNESS STATEMENT SONDRRA CORLEY

Defendant's Exhibit 18

WITNESS STATEMENT SONDRRA CORLEY

Defendant's Exhibit 19

WITNESS STATEMENT SONDRRA CORLEY

Defendant's Exhibit 20

WITNESS STATEMENT SONDRRA CORLEY

Defendant's Exhibit 21

4th AMENDMENT WAS BROKEN PROTECTION FROM UNSEASONABLY SEARCHES AND SEIZURES

Defendant's Exhibit 22

MOTION TO DISCOVER

Defendant's Exhibit 23

MOTION TO DISCOVER



Darlington Common Pleas

Case Caption: Angel D Phillips VS .Hartsville DSS
Case Number: 2019CP1600705
Type: Order/Dismissal

So Ordered

s/Roger E. Henderson 2754

Electronically signed on 2019-11-15 12:17:35 page 5 of 5

TRUE CERTIFIED COPY,
Scott B. Suggs
CLERK OF COURT/RMC
DARLINGTON COUNTY, SC

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF DARLINGTON) FOURTH JUDICIAL CIRCUIT
) C/A NO. 2019-CP-16-0705

Angel D. Phillips,)
Plaintiff,)
vs.)
Hartsville Department of Social Services,)
Defendant.)

**ORDER GRANTING
MOTION TO DISMISS**

This matter came before me as presiding judge for the Fourth Judicial Circuit on November 14, 2019, upon plaintiff's Motion for Discovery and defendant's Motion to Dismiss. Present were *pro se* plaintiff Angel D. Phillips and Joseph P. McLean, attorney for defendant. The court has reviewed the record in this case and heard arguments from the parties on the pending motions.

FACTS

In June 2016, a report of child neglect was made against plaintiff which resulted in her son being placed into emergency protective custody. After investigation and assessment, defendant ¹ found the report of neglect unfounded, it notified plaintiff of this fact by letter dated August 5, 2016. The child was returned, and defendant closed its file.

¹ Defendant is misidentified in the pleadings as "Hartsville Department of Social Services." The correct defendant is the South Carolina Department of Social Services which is the state entity with the duty to investigate all reports of child neglect to see if the allegations have merit. S.C. Code Ann. §63-7-10 (2018 Cum. Supp.); *SCDSS v Pritcher*, 329 S.C. 242, 495 S.E.2d 242 (Ct. App. 1997).

TRUE CERTIFIED COPY,
Scott B. Suggs
CLERK OF COURT/RMC
DARLINGTON COUNTY, SC

This action was filed on July 3, 2019. In it, plaintiff seeks damages against defendant for wrongfully placing her son into emergency protective custody.

Defendant contends this action is barred by the statute of limitations and has moved to dismiss. Plaintiff has moved for an order to require defendant to produce to her its unredacted file on the underlying report of child neglect and defendant's investigation.

MOTION TO DISMISS

Defendant is a governmental agency of the State of South Carolina. The South Carolina Tort Claims Act governs all tort claims against governmental agencies, and it is the exclusive civil remedy available in an action against a governmental agency. Defendant is only liable for torts within the limitations of the Tort Claims Act. See, S.C. Code Ann. §15-78-20 (2019 Cum. Supp.).

Any action brought pursuant to the Tort Claims Act is subject to a two-year statute of limitations which begins to run on the date the loss was or should have been discovered, unless the claimant has first filed a verified claim which extends the statute of limitations to three years. S.C. Code Ann. §15-78-110 (2018 Cum. Supp.). The discovery rule is applicable to actions brought under the Tort Claims Act. *Barr v. City of Rock Hill*, 330 S.C. 640, 500 S.E.2d 157 (Ct. App. 1998). According to the discovery rule, the statute of limitations begins to run when a cause of action reasonably ought to have been discovered. The statute runs from the date the injured party either knows or should have known by the exercise of reasonable diligence that a cause of action arises from wrongful conduct. The

TRUE CERTIFIED COPY,

Scott B. Suggs
CLERK OF COURT/RMC
DARLINGTON COUNTY, SC

phrase “exercise of reasonable diligence” means that the injured party must act with some promptness where the facts and circumstances of an injury place a reasonable person of common knowledge and experience on notice that a claim against another party might exist. *Dean v. Ruscon Corp.*, 321 S.C. 360, 468 S.E.2d 645 (1996). The date on which discovery should have been made is an objective, not subjective, question. *Kreutner v. David*, 320 S.C. 283, 465 S.E. 2d 88 (1995). In other words, whether the particular plaintiff actually knew (s)he had a claim is not the test. Rather, courts must determine whether the circumstances of the case would put a person of common knowledge and experience on notice that some right of his has been invaded or that some claim against another party might exist. *Young v. South Carolina Dept. of Corrections*, 333 S.C. 714, 511 S.E.2d 413 (Ct. App. 1999).

Viewing the facts and inferences in the light most favorable to plaintiff, the court finds that she was put on notice in August of 2016 that she had a potential claim against defendant. Plaintiff was advised in writing that the report of neglect made to defendant and which served as the basis for taking her son into emergency protective custody was determined to be unfounded. This fact would have put a person of common knowledge and experience on notice that some right of hers had been invaded or that some claim in tort against defendant might exist.

This action was filed on July 3, 2019 which is more than two years from August

TRUE CERTIFIED COPY,
Scott B. Suggs
CLERK OF COURT/RMC
DARLINGTON COUNTY

2016. Plaintiff did not file a verified claim. 2 Therefore, the statute of limitations is two years. Plaintiff did not file this action within two years from the time she discovered or reasonably should have discovered the existence of a potential cause of action. As a result, her claim is barred by the statute of limitations.

MOTION FOR DISCOVERY

Because this action is barred by the statute of limitations, it is not necessary to rule upon plaintiff's Motion for Discovery which is rendered moot.

BASED ON THE FOREGOING, IT IS HEREBY ORDERED:

1. Defendant's Motion to Dismiss is granted, and this action is dismissed with prejudice.
2. Plaintiff's Motion for Discovery is moot.

[E-SIGNATURE OF JUDGE TO FOLLOW]

2 Plaintiff did file a complaint with the South Carolina Office of Inspector General, but it does not meet the plain requirements of a verified claim as set forth in S.C. Code Ann. §15-78-80 (2018 Cum. Supp.). Among other things, the complaint was not verified and it was not filed with the defendant, the State Fiscal Accountability Authority, or with the Attorney General.

TRUE CERTIFIED COPY,
Scott B. Suggs
CLERK OF COURT/RMC
DARLINGTON COUNTY, SC

RECEIVED

AUG 30 2021

SC Court of Appeals

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

July 16, 2021

/s/ ANGEL PHILLIPS

Angel phillips