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STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON)
S.C. Court of Appeals

SEP 27 2021

Eddie Clay Golson #303012,) C/A No. 2020-CP-10-04208
Plaintiff,)

Versus)

Tammy Way, Joy Campbell, Ellore A. Ganes,)
Brian Sterling, Robert H. Hood, individual and)
official capacity,)
Defendants.)

**ORDER GRANTING DEFENDANTS'
MOTION TO DISMISS, OR IN THE
ALTERNATIVE MOTION FOR
SUMMARY JUDGMENT**

FILED
2021 AUG 31 P 2:05
JULIE J. GONZALEZ
CLERK OF COURT

This matter is before the Court on the Defendants Tammy Way, Joy Campbell, Ellore A. Ganes, Brian Sterling, Robert H. Hood, in their individual and official capacity (hereinafter "the Defendants") Motion to Dismiss or in the Alternative for Summary Judgment. Defendants argue that the Plaintiff failed to file the required expert affidavit along with his professional negligence lawsuit pursuant to S.C. Code § 15-36-100 (as to Defendants Ganes and Hood) and further, that the remaining Defendants are immune from Liability under the South Carolina Tort Claims Act. As such, for the reasons discussed below, the Defendants' Motion to Dismiss or in the Alternative for Summary Judgment is hereby GRANTED.

A. The Plaintiff failed to adhere to S.C. Code § 15-36-100 with regards to his professional negligence claims and he lacks standing to sue Defendants Ganes and Hood.

The Plaintiff's complaint alleges misconduct against the Defendants Ellore A. Ganes and Robert H. Hood. As such, it is subject to S.C. Code § 15-36-100 which has not been followed. Plaintiff did not file an expert affidavit contemporaneously with the complaint supporting his allegations of professional negligence, nor has such affidavit been filed to date. In addition, Plaintiff lacks standing to sue Ganes and Hood as there was never an attorney-client relationship between Plaintiff and either of these attorneys. Therefore, the Plaintiff has failed to state a claim upon which relief can be granted against the Defendants and the Defendants' Motion is hereby GRANTED.

B. The remaining Defendants are immune from Liability under the South Carolina Tort Claims Act.

The remaining Defendants -Tammy Way, Joy Campbell, and Brian Sterling were employees of the South Carolina Department of Corrections ("SCDC") during the times alleged in the Plaintiff's Complaint. SCDC is an "agency" of the State which is a "governmental entity" as defined under the South Carolina Tort Claims Act. S.C. Code Ann. §15-78-30 et seq. Specifically, the South Carolina Tort Claims Act defines a "governmental entity" as "the State and all its political subdivisions including "any of its offices, agencies, authorities, departments, commissions, boards, divisions, instrumentalities..." S.C. Code Ann. § 15-78-30(d)-15-78-30(e). Defendants Way, Campbell, and Sterling are "employees" of the State as defined under the South Carolina Tort Claims Act. S.C. Code Ann. § 15-78-30(c).

Lawsuits brought against any "agency" or a "governmental entity," such as SCDC, may only be maintained against the entity for which the employee was acting, pursuant to §15-78-70(a).

Therefore, the Plaintiff has failed to state a claim upon which relief can be granted against Defendants Way, Campbell and Sterling and the Defendants' Motion to Dismiss or in the Alternative for Summary Judgment is hereby GRANTED.

IT IS SO ORDERED.



Roger M. Young, Sr.
Presiding Circuit Court Judge

Charleston, SC

This 30th day of August, 2021.