

State of New York
Supreme Court, Appellate Division
Third Judicial Department

Decided and Entered: January 11, 2018

523679

ALVIN BURNSIDE,

Appellant,

v

MEMORANDUM AND ORDER

STATE OF NEW YORK,

Respondent.

Calendar Date: November 13, 2017

Before: McCarthy, J.P., Egan Jr., Lynch, Devine and
Pritzker, JJ.

Alvin Burnside, Attica, appellant pro se.

Eric T. Schneiderman, Attorney General, Albany (Kathleen M.
Treasure of counsel), for respondent.

McCarthy, J.P.

Appeal from an order of the Court of Claims (Milano, J.),
entered August 15, 2016, which denied claimant's motion for
summary judgment.

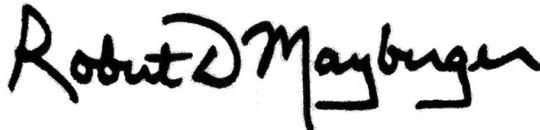
Claimant, a prison inmate, brought this claim to recover
for, among other things, the alleged loss of personal property
that occurred during the course of his transfer to another
correctional facility. Following joinder of issue, claimant
moved for summary judgment, and defendant opposed that motion.
The Court of Claims denied claimant's motion finding that
claimant's motion papers were deficient. This appeal by claimant
ensued.

We affirm. Inasmuch as the record reflects that claimant's original moving papers did not include either a copy of his claim or defendant's answer,¹ his motion for summary judgment was properly denied for failing to include the pleadings as required by statute (see CPLR 3212 [b]; Davis v State of New York, 151 AD3d 1411, 1412 [2017]; Weinstein v Gindi, 92 AD3d 526, 527 [2012]; Senor v State of New York, 23 AD3d 851, 852 [2005]; compare Bagley v Moffett, 107 AD3d 1358, 1359-1360 [2013]). Accordingly, we decline to disturb the denial of claimant's motion for summary judgment.

Egan Jr., Lynch, Devine and Pritzker, JJ., concur.

ORDERED that the order is affirmed, without costs.

ENTER:

A handwritten signature in black ink that reads "Robert D. Mayberger". The signature is written in a cursive, slightly slanted style.

Robert D. Mayberger
Clerk of the Court

¹ Although claimant attempted to cure the defect by attaching a copy of his claim to his affirmation in reply to defendant's opposition to his motion, he still failed to attach a copy of the answer.