

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

MOHAMMAD ABULABAN

Plaintiff,

vs.

CITY OF CHARLESTON AND
SOUTH CAROLINA DEPARTMENT
OF TRANSPORTATION,

Defendants.

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

CASE NO: 2020-CP-10-01310

ORDER DENYING PLAINTIFF'S
MOTION TO RECONSIDER, ALTER
OR AMEND

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SC Court of Appeals

Plaintiff filed a Motion to Alter or Amend under the South Carolina Rule of Civil Procedure 59(e) on 13 May 2022 asking this Court to reconsider its decision to grant Summary Judgment to the South Carolina Department of Transportation ("SCDOT").

The purpose of Rule 59(e), SCRCP is to request the trial judge to "reconsider matters properly encompassed in a decision on the merits." *Arnold v. State*, 309 S.C. 157, 172, 420 S.E.2d 834, 842 (1992). Plaintiff requests that this Court address and rule upon the claim that there is a scintilla of evidence in the record that SCDOT "failed to properly pin and secure the manhole cover that it owned and controlled *so as to prevent tampering* and such failing proximately caused Plaintiff's injuries and damages, thus precluding summary judgment." *Plaintiff's Motion for Reconsideration*, at 8, (13 May 2022). In the Order ruling on this Motion for Summary Judgment, this Court found no evidence in the record that SCDOT had notice of the condition of which Plaintiff complains and SCDOT is not liable for the acts of third parties. *Order Granting South Carolina Department of Transportation's Motion for Summary Judgement*, at 2 and 5, 4 May 2022.

Plaintiff's Complaint makes a claim for direct and proximate cause of the acts of SCDOT.¹ However, Plaintiff presents no evidence that SCDOT caused the manhole in question to be tampered with. The issue before this Court is not whether there is a scintilla of evidence that SCDOT failed to take any action that a third-party may have capitalized

¹ "The injuries and damages incurred by the Plaintiff were directly and proximately caused by the careless, negligent, grossly negligent, willful, wanton, reckless, an unlawful acts of both Defendants in one or more of the following particulars." *Complaint*, at 4

on but, rather, whether SCDOT is liable for the actions of a third-party. Pursuant to the South Carolina Tort Claims Act, SCDOT is not.

“The governmental entity is not liable for a loss resulting from an act or omission of a person other than an employee including but not limited to the criminal actions of third persons.”

SC Code Ann §15-78-60 (20).

THEREFORE, upon careful consideration of Plaintiff’s memorandum and provided documentation, the Court hereby DENIES Plaintiff’s Motion to Reconsider, Alter, or Amend its previous ruling in this case.

IT IS SO ORDERED.

R. Markley Dennis, Jr.
Presiding Judge
Ninth Judicial Circuit Court of Common Pleas

29 June 2022
Charleston, South Carolina



Charleston Common Pleas

Case Caption: Mohammad Abulaban VS Charleston City Of , defendant, et al

Case Number: 2020CP1001310

Type: Order/Other

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