

STATE OF SOUTH CAROLINA)
)
COUNTY OF ORANGEBURG)

IN THE COURT OF COMMON PLEAS
FIRST JUDICIAL CIRCUIT

DARYL LAMONT PARKER,)
)
Plaintiff,)
)
v.)
)
ORANGEBURG COUNTY,)
)
Defendant.)
_____)

Case Number: 2021-CP-38-00106

ORDER

RECEIVED
Oct 14 2022
SC Court of Appeals

This matter came before me on July 19, 2022, upon the motion of Defendant Orangeburg County for Summary Judgment. Skyler B. Hutto appeared for the Plaintiff. Alison Dennis Hood appeared for the Defendant. Following a hearing on this matter, I make the following findings of fact and conclusions of law.

FINDINGS OF FACT

On December 14, 2020, Plaintiff was booked into the Orangeburg County Detention Center on three counts of violating §34-11-60, S. C. Code of Laws (fraudulent checks: Warrants #2013A3810700638, #2013A3810700639, #2013A3810700689). At that time, Plaintiff was served with an outstanding Bench Warrant (#2015B3800100171), in Case Number: 2012GS3800353. The Bench Warrant states that it was issued following the failure to comply with a court order / failure to pay fees following a guilty plea for receiving stolen goods (Case Number: 2012GS3800353). On January 29, 2021, Plaintiff's criminal defense attorney sent a letter to the jail, inquiring about Plaintiff's continued incarceration, which continued from December 14, 2020 forward. On February 1, 2021, the jail responded, in writing, notifying

Plaintiff's counsel that the outstanding warrant was still active. On February 2, 2021, Plaintiff sought an Order to lift the Bench Warrant, which was granted by Judge Dickson. Following the issuance of the February 2, 2021 Order, the Bench Warrant was lifted and Plaintiff was released from the jail.

According to the Complaint in this action, Plaintiff has sued Orangeburg County, for two causes of action: Negligence / Gross Negligence and Wrongful Imprisonment. All causes of action were leveled against the County, which owns and operates Orangeburg County Detention Center. Plaintiff alleges he is entitled to damages stemming from the continued detention between December 14, 2020 and February 2, 2021.

For the reasons contained herein, I find that Plaintiff is not entitled to recover damages from Defendant Orangeburg County, as a matter of law. Summary judgment is appropriate in this case.

STANDARD OF REVIEW

Summary judgment is proper when there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. Rule 56(c), SCRPC. To determine if any genuine issue of material fact exists, the evidence and all inferences that can reasonably be drawn therefrom must be viewed in the light most favorable to the nonmoving party. *Id.*

“Summary judgment should be granted only where it is perfectly clear that no genuine issue of material fact exists and inquiry into facts is not desirable to clarify application of the law.” *Wortman v. Spartanburg*, 310 S.C. 1, 4, 425 S.E. 2d 18, 20 (1992). “The judgment sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” Rule

56(c), SCRCP. “[A]n adverse party may not rest upon the mere allegations or denials of his pleading, but his response, by affidavits or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for trial. If he does not so respond, summary judgment, if appropriate, shall be entered against him.” Rule 56(e), SCRCP.

CONCLUSIONS OF LAW

Plaintiff asserts a first cause of action for false imprisonment against Defendant Orangeburg County, which owns and operates Orangeburg County Detention Center. In order to recover under a theory of false imprisonment, the complainant must establish (1) the defendant restrained him; (2) the restraint was intentional; and (3) the restraint was unlawful. *Andrews v. Piedmont Air Lines*, 297 S.C. 367, 377 S.E.2d 127 (Ct. App.1989). *See also Jones v. City of Columbia*, 301 S.C. 62, 64, 389 S.E.2d 662, 663 (1990)(holding an action for false imprisonment cannot be maintained where one is arrested by lawful authority); *Jones by Robinson v. Winn-Dixie Greenville, Inc.*, 318 S.C. 171, 175, 456 S.E.2d 429, 432 (Ct. App. 1995); Patrick Hubbard & Robert L. Felix, *The South Carolina Law of Torts* 455 (4th ed. 2011); *see also Wallace v. Kato*, 549 U.S. 384, 388, 127 S. Ct. 1091, 166 L.Ed.2d 973 (2007)(“False arrest and false imprisonment overlap; the former is a species of the latter.”) This case turns on the third prong of the test. Plaintiff was admitted to the jail on December 14, 2020, lawfully, pursuant to outstanding warrants, including the Bench Warrant at issue in this case. Plaintiff’s continued detention was pursuant to a Bench Warrant, which required that continued detention, on its face.

“It has long been the law that one arrested pursuant to a facially valid warrant has no cause of action for false arrest.” *Bushardt v. United Inv. Co.*, 121 S.C. 324, 330, 113 S.E. 637, 639 (1922), cited affirmatively in *Carter v. Bryant*, 429 S.C. 298, 306, 838 S.E.2d 523, 528 (Ct. App. 2020),

reh'g denied (Feb. 20, 2020), *cert. denied* (Oct. 19, 2020). “If a plaintiff suing for false arrest ‘has shown that the arrest and imprisonment of which he complains was made under legal process, regular in form, and lawfully issued and executed, then he has proved himself out of court.’” *McConnell v. Kennedy*, 29 S.C. 180, 186-87, 7 S.E. 76, 78 (1888). The Bench Warrant in this case provides lawful authority for Plaintiff’s detention from December 14, 2020, until his release on February 2, 2021, when the Bench Warrant was revoked.

The bench warrant states: “To all the Sheriffs, Deputy Sheriffs, etc...It is, therefore, ordered that you make diligent search for the above named and take him to the County jail / detention facility, where he will be safely held until he may be brought before this Court, or otherwise discharged by due course of law.” The bench warrant was entered by the Clerk of Court on September 25, 2015. It was served on Plaintiff on December 14, 2020. At that time, Plaintiff was taken to the Orangeburg County Detention Center, pursuant to the bench warrant. The imprisonment was therefore lawful. These facts do not support a cause of action for false arrest or false imprisonment against Orangeburg County.

Further, there can be no liability on the part of this Defendant for booking Plaintiff into the jail or detaining Plaintiff in compliance with the bench warrant under any theory of negligence or gross negligence. In fact, this detention, from December 14, 2020 until February 2, 2021, was required by law.

Pursuant to Rule 30(c), SCRCrimP, “It is the continuing duty of the Sheriff, and of other appropriate law enforcement agencies in the County, to make every reasonable effort to serve bench warrants.”

The Orangeburg County Clerk of Court, Winnifa Clark, is a State Constitutional Officer, under Article V, §24, of the South Carolina Constitution, whose deputy clerks serve at her

pleasure and under her direction, pursuant to §14-17-60, S. C. Code of Laws. The Clerk and the Clerk's office are not under the administration or supervision of Orangeburg County. The Orangeburg County Clerk of Court is not a party to this action. The South Carolina Constitution, South Carolina statutes, and South Carolina common law all clarify that Orangeburg County and the Orangeburg County Clerk of Court are distinct legal entities, which cannot be conflated, under South Carolina law. The Clerk of Court is not an employee of Orangeburg County under §15-78-30(c), S. C. Code of Laws. Pursuant to §15-78-60(20), S. C. Code of Laws, Orangeburg County cannot be held liable for the acts or omission of those it does employ, lacking both the right to control or terminate such employees. *See Faile v. South Carolina Department of Juvenile Justice*, 350 S.C. 315, 566 S.E.2d 536, 543 (2002). *See also, for example, Poloschan v. Simon*, 2014WL1713562 (April 28, 2014). Therefore, even if this Bench Warrant was issued or maintained improperly, Defendant Orangeburg County cannot be liable for the circumstances surrounding its issuance or persistence.

Further, under the South Carolina Tort Claims Act, a governmental entity is not liable for a loss resulting from the "responsibility or duty including but not limited to supervision, protection, control, confinement, or custody of any inmate, except when the responsibility or duty is exercised in a grossly negligent manner." §15-78-60(25), S. C. Code of Laws. "Gross negligence is the intentional conscious failure to do something which it is incumbent upon one to do or the doing of a thing intentionally that one ought not to do." *Clyburn v. Sumter County Sch. Dist. No. 17*, 317 S.C. 50, 53, 451 S.E.2d 885, 887 (1994). "It is the failure to exercise even the slightest care." *Faile v. South Carolina Dep't of Juvenile Justice*, 350 S.C. 315, 331-32, 566 S.E.2d 536, 544 (2002). "While gross negligence ordinarily is a mixed question of law and fact, when the evidence supports but one reasonable inference, the question becomes a matter of law

for the court.” *Etheredge v. Richland Sch. Dist. One*, 341 S.C. 307, 310, 534 S.E.2d 275, 277 (2000).

The South Carolina Tort Claims Act provides immunity to Defendant in these circumstances, if the Defendant can demonstrate it used “slight care.” “The fact that the [governmental entity] might have done more does not negate the fact that it exercised, ‘slight care.’” *See Etheredge*, 341 S.C. at 312, 534 S.E.2d at 278. Defendant has presented evidence of ‘slight care’ in this case.

On January 29, 2021, Plaintiff’s attorney notified the jail, in writing, questioning Plaintiff’s continued detention. On February 1, 2021, the jail responded that detention center staff had confirmed that the warrant was still active. On February 2, 2021, Plaintiff moved the Court for an Order setting aside the bench warrant, which was granted. The necessity of having a Judge void the outstanding Bench Warrant is further evidence of its validity at the time of the detention. At the time of the Order lifting the Bench Warrant, Plaintiff was released from the jail. The jail had no discretion to release Plaintiff upon request. Orangeburg County Detention Center administration and staff do not have the authority or discretion to ignore, modify, or dismiss a Bench Warrant.

Orangeburg County Detention Center used, at minimum, slight care, to confirm the outstanding bench warrant. Under §15-78-60(25), S. C. Code of Laws, summary judgment is appropriate in this case. *See Clyburn v. Sumter County School Dist. No. 17*, 317 S.C. 50, 451 S.E.2d 885 (1994); *see also Faile v. South Carolina Dept. of Juvenile Justice*, 350 S.C. 315, 566 S.E.2d 536 (2002).

Defendant is further immune from suit under §15-78-60(2), S. C. Code of Laws, Defendant which provides that the Defendant is not liable for any loss resulting from

administrator action or inaction of a judicial or quasi-judicial nature. In this case, the issuance and service of a bench warrant for outstanding fees / failure to comply with a prior order of the court cannot create liability against the county-run detention center for honoring the facially valid warrant.

Under §15-78-60(3), S. C. Code of Laws, Defendant is further immune for a loss resulting from the execution, enforcement, or implementation of the orders of any court or execution, enforcement or lawful implementation of any process. In this case, Plaintiff cannot hold Defendant liable for detaining Plaintiff pursuant to a bench warrant. The case directly concerns the implementation of a court order. Plaintiff's alleged damages arise from the implementation of a bench warrant. Defendant County cannot be liable for these losses.

Under §15-78-60(4), S. C. Code of Laws, Defendant is immune for any losses resulting from the adoption, enforcement, or compliance with any law. Pursuant to §24-5-10, S. C. Code of Laws, the Orangeburg County Detention Center is under the obligation to house any person delivered to the jail pursuant to a facially valid bench warrant and does not have discretion to refuse to accept an individual so delivered. In the absence of discretion to refuse to house such individuals, Defendant cannot be held liable for detaining an inmate pursuant to a facially valid, and in this case confirmed-active, bench warrant.

Being in derogation of sovereign immunity, the provisions of the South Carolina Tort Claims Act are to be strictly construed against liability, pursuant to §15-78-20(f), S. C. Code of Laws.

NOW THEREFORE,

IT IS HEREBY ORDERED, the Defendant's Motion for Summary Judgment is GRANTED, thereby ending this case in its entirety, with prejudice.

AND IT IS SO ORDERED.

_____, 2022

_____, SC

Diane Schafer Goodstein
Chief Administrative Judge
First Judicial Circuit



Orangeburg Common Pleas

Case Caption: Daryl Parker VS Orangeburg County

Case Number: 2021CP3800106

Type: Order/Summary Judgment

It is so Ordered!

s/Diane S. Goodstein