

STATE OF SOUTH CAROLINA)
)
COUNTY OF AIKEN)
)
Latrell Wingard and James Edwards, as)
Co-Personal Representative of the Estate)
of J.E., a minor,)
)
Plaintiffs,)
)
vs.)
)
Aiken County Sheriff’s Department and)
Aiken County Sheriff Michael E. Hunt,)
)
)
Defendants.)
)
_____)

IN THE COURT OF COMMON PLEAS
SECOND JUDICIAL CIRCUIT

CASE NO.: 2022-CP-02-00325

**ORDER DENYING PLAINTIFFS’ MOTION
FOR RECONSIDERATION**

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SC Court of Appeals

This matter is before the Court on Plaintiffs’ Motion for Reconsideration (“the Motion), which was timely filed on December 1, 2022. The Motion is made under Rule 59(e) pursuant to this Court’s Order Granting Defendants’ Motion for Judgment on the Pleadings, issued November 21, 2022. For the reasons set forth below, the Court hereby **DENIES** the Motion.

ANALYSIS

In the Motion, Plaintiffs argue “[t]his Court’s Order [G]ranteeing [] Defendants’ Motion for [J]udgment on the [P]leadings erroneously concludes that Defendants’ actions and/or inactions fall squarely within the purview of the [exceptions to the] waiver of immunity provided under S.C. Code Ann. §15-78-60(6).” Plaintiff’s Motion at 2. Further, Plaintiffs contend their “allegations are focused on the misconduct of the 911 dispatch center, not the fire department or any of its employees . . .” and that “[t]hese conclusions constitute errors of law, necessitating reconsideration of the Court’s Order” Granting Defendants’ Motion for Judgment on the Pleadings. *Id.* The Court respectfully disagrees.

In support of their position, Plaintiffs claim “[t]he fire department has no control over the dispatch center and how it operates. Rather, the fire department relies on 911 dispatch to properly



dispatch them, which Plaintiffs contend they failed to properly do in this case.” *Id.* at 3. On this point, however, the Court and Plaintiffs find common ground.

The Court, in its Order Granting Defendants’ Motion for Judgment on the Pleadings, relied on *Wells v. City of Lynchburg*, holding that “[t]he function at issue in this case (*i.e.*[,] Defendants’ 911 dispatch system) is part and parcel of the fire protection network, just like the water lines and fire hydrants in *Wells*.” *See* 331 S.C. 296, 305, 501 S.E.2d 746, 751 (Ct. App. 1998) (holding that “[t]he maintenance of fire hydrants and the supply of water for fighting fires clearly is included in the exceptions from liability in [S]ection 15-78-60 for the method of providing fire protection . . .”). The Court maintains its reasoning that the case at bar is analogous to *Wells*.

A fire department cannot adequately fight fires without being dispatched to a location where a fire needs to be fought. Put differently, and as stated by Plaintiffs in the Motion, “the fire department relies on 911 dispatch to properly dispatch them[.]” Plaintiff’s Motion at 3. Similarly, a fire department cannot adequately fight fires without having access to water via fire hydrants and water lines, and the fire department relies on the city in which it is located or dispatched to properly maintain those sources of water, as discussed in *Wells*. As such, the Court concludes that reconsideration of its prior Order Granting Defendants’ Motion for Judgment on the Pleadings is unwarranted.

CONCLUSION

After reviewing the applicable law and considering the arguments of counsel, the Court hereby **DENIES** Plaintiffs’ Motion for Reconsideration for the reasons set for above. Further, the Court, pursuant to the discretion afforded by Rule 59 and *Pollard v. County of Florence*, concludes that a hearing is not necessary before ruling on Plaintiff’s Motion for Reconsideration. *See* Rule 59(f), SCRPC (stating a Rule 59(e) motion “may in the discretion of the court be determined on

the briefs filed by the parties without oral argument”); *see also Pollard*, 314 S.C. 397, 401–02, 444 S.E.2d 534, 536 (Ct. App. 1994) (holding there was “no merit in Pollard's assertion that the circuit court committed reversible error in denying her motion to alter or amend the judgment under Rule 59(e) SCRCP, without first conducting a hearing or allowing [the parties] ‘to fully brief’ the issues raised in [the] motion”).

AND IT IS SO ORDERED.

[JUDICIAL E-SIGNATURE PAGE TO FOLLOW]



Aiken Common Pleas

Case Caption: Latrell Wingard , plaintiff, et al VS Aiken County Sheriffs
Department , defendant, et al

Case Number: 2022CP0200325

Type: Order/Other

It Is So Ordered

s/ Walton J. McLeod