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Mar 15 2023

SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

Bentley D. Price, Circuit Court Judge

Appellate Case No.: 2020-000804

John Doe, ..... Appellant,

v.

Bishop of Charleston, a Corporate Sole, and The Bishop  
of the Diocese of Charleston, in his official capacity, ..... Respondent.

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**MOTION TO RECONSIDER DECISION WITHOUT ORAL ARGUMENT**

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PURSUANT TO Rule 240, SCRAP, appellant John Doe respectfully requests the Court reconsider its decision to determine this appeal without oral argument. The grounds for the motion are that the Appellant wishes to clarify certain of its positions in the argument before the Court. Specifically:

1. Appellant agrees his negligence-based claims-- negligence/gross negligence, breach of fiduciary duty, and negligent retention-- are properly dismissed under the doctrine of charitable immunity as it existed at the time of Doe's abuse by agents of the Diocese of Charleston. Plaintiff's remaining claims-- for fraudulent concealment, outrage, and civil conspiracy-- are intentional torts, for which the Diocese of Charleston is not immune. As a result, the trial court's grant of summary judgment was error. See also *Douglass v. Florence General Hospital*, 273 S.C. 716259 S.E.2d 117 (1979) (affirming the dismissal

of negligence-based claims but reversing the dismissal of intentional torts and allowing the plaintiff to prove her case on those claims.).

2. Plaintiff's claims for breach of contract and breach of contract accompanied by a fraudulent act arise from business operations of the Diocese of Charleston, for which there is also no immunity. *Eiserhardt v. State A. & M. Society of South Carolina*, 235 S.C. 305, 111 S.E.2d 568 (1959). Appellant is unaware of any law by which charities at any time could not be sued for breaches of contracts it entered into.
3. The law in South Carolina prior to the abrogation of common law charitable immunity was clear: charities were never immune from their intentional torts:

Regardless of the public policy support, if there now be such, for a rule exempting a charity from liability for simple negligence, we know of no public policy, and none has been suggested, which would require the exemption of the charity from liability for an intentional tort; ***and we refuse to so extend the charitable immunity doctrine.***

*Jeffcoat v. Caine*, 261 S.C. 75, 80, 198 S.E.2d 258, 260 (1973)(emphasis added). See also *Peden v. Furman Univ.*, 155 S.C. 1, 151 S.E. 907, 911 (1930)("There is no doctrine of public policy that would permit the university to commit the acts of trespass, as alleged and testified to in this case, or authorize it to so damage and use plaintiff's property in such a manner as amounts to a taking of his property.").

Nevertheless, much of the modern debate over the applicability of charitable immunity arises from dicta found in a trial judge's order from 2003, which held that *Jeffcoat* was prosecutive in application. *John DOE, Plaintiff, v. THE DIOCESE OF CHARLESTON and Jane Doe, Defendant*, No. 02-CP-10-0770, 2003 WL 25456994 (S.C. Com. Pl. Jan. 10, 2003). However, the question of the prospective versus retroaction application of *Jeffcoat* was never analyzed in that 2002 *Doe* case; the Diocese has simply survived on that misapprehension. Rather, both *Peden* (decided before World War II) and *Jeffcoat* (decided 40 more than years later) make clear that

such an analysis was not necessary because charities *have never* been immune from intentional torts in South Carolina. The very text in *Jeffcoat* makes clear that the charity in *Jeffcoat* sought to extent the doctrine and the Supreme Court declined to do so. If a charity could not in 1930 allow baseballs to be hit into a neighbor's yard without liability, as *Peden* determined, then how can a charity be immune from systematically turning a blind eye to sexual molestation by its priests and staff and actively working internally to cover up this abuse? At the very least, a scintilla of evidence exists of the Diocese's ongoing outrageous and intentional acts exists for a jury to determine.

For the reasons set forth herein, Appellant prays the Court reconsider its decision to determine this appeal on the briefs and further prays the trial court reverse the trial court below on the grounds set forth herein.

WHEREFORE the Appellant prays for the relief requested herein and such other relief as the Court deems just, prudent, and proper.

Respectfully submitted,

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**PROOF OF SERVICE**

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I certify that I have served the MOTION TO RECONSIDER DECISION WITHOUT ORAL ARGUMENT by electronic transmission to all counsel of record (listed below) on March 15, 2023, by using the following AIS email addresses:

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Charleston, South Carolina



David K. Haller  
*Certified Civil Court Mediator and Arbitrator*

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**VIA U.S. MAIL & EMAIL** [ctappfilings@sccourts.org](mailto:ctappfilings@sccourts.org)

The Honorable Jenny Abbott Kitchings

South Carolina Court of Appeals

P.O. Box 11629

Columbia, SC 29211

In Re: John Doe v. Bishop of Charleston  
Appellate Case No. 2020-000804

Dear Madame Clerk:

Enclosed please find for filing Appellant's Motion to Reconsider Decision Without Oral Argument and Proof of Service, together with my firm check for \$50.00 as the filing fee. Please return a clocked copy to this address.

Thank you for your time and attention to this matter.

Very truly yours,

A handwritten signature in blue ink that reads 'David K. Haller'. The signature is stylized and cursive.

David K. Haller

cc: Counsel of Record