

THE STATE OF SOUTH CAROLINA
In The Supreme Court

RECEIVED

Jun 16 2023

S.C. SUPREME COURT

APPEAL FROM GREENWOOD COUNTY
Court of Common Pleas

The Honorable Frank Addy, Circuit Court Judge

Supreme Court Case No. 2022-000740
Appellate Case No. 2019-000637

Tony Young,.....Petitioner,

v.

Greenwood County Detention Center and the Greenwood County Sheriff's
Office, Defendants,

Of Which the Greenwood County Sheriff's Office is.....Respondent.

APPENDIX – VOLUME III

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INDEX

Record On Appeal – Volume 1.....	1
Record On Appeal – Volume 2.....	500
Record On Appeal – Volume 3.....	992
Supplemental Record On Appeal	1063
Final Brief of Appellant.....	1068
Final Brief of Respondent.....	1094
Final Reply Brief.....	1124
Court of Appeals Unpublished Opinion No. 2022-UP-170 - Submitted March 1, 2022 – Filed April 6, 2022	1139
Petition for Rehearing, filed April 21, 2022	1144
Order Denying Petition for Rehearing, filed May 03, 2022	1149

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED

May 26 2020

APPEAL FROM GREENWOOD COUNTY
Court of Common Pleas

SC Court of Appeals

The Honorable Frank Addy, Circuit Court Judge

Appellate Case No. 2019-000637

Tony Young,..... Appellant,

v.

Greenwood County Detention Center and the Greenwood County Sheriff's
Office, Defendants,

Of Which The Greenwood County Sheriff's Office is,..... Respondent.

RECORD ON APPEAL - VOLUME III

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INDEX

Orders and Judgments

U.S. District Court Order filed January 5, 2016	1
Order Denying Motion for a New Trial dated March 27, 2019	2

Pleadings

Summons and Complaint dated July 10, 2013 Designated as Civil Action No. 2013-CP-24-00655	3
Answer filed August 12, 2013	13
Summons and Complaint Designated as Civil Action No. 2016-CP-24-00157	23

Motions

Plaintiff's Motion in <i>Limine</i> filed September 19, 2018	42
Defendants' Motion in <i>Limine</i> dated September 19, 2018	49
Plaintiff's Supplemental Motion in <i>Limine</i> filed September 21, 2018	51
Plaintiff's Motions for a New Trial, Thirteenth Juror Doctrine, and JNOV filed October 5, 2018	54

Transcripts and Exhibits

Trail Transcript dated September 24, 2018 - September 27, 2018	56
Rodney Gresham Direct by Mr. White	150
Rodney Gresham Cross by Mr. Harter	156
Rodney Gresham Redirect by Mr. White	161
Rodney Gresham Recross by Mr. Harter	162
Gene Powell Direct by Mr. White	164
Gene Powell Cross by Mr. Harter	188

Gene Powell Redirect by Mr. White.....	202
Gene Powell Recross by Mr. Harter	210
Katie Gilmore Direct by Mr. White.....	215
Katie Gilmore Cross by Mr. Harter	232
Katie Gilmore Redirect by Mr. White	244
Katie Gilmore Recross by Mr. Harter.....	250
Jeffrey Daniel Roberts Direct by Mr. White.....	252
Sherry Bouknight Direct by Mr. White	255
Sherry Bouknight Cross by Mr. Harter.....	277
Sherry Bouknight Redirect by Mr. White.....	330
Sherry Bouknight Recross by Mr. Harter	337
Beverly Weaver Direct by Mr. White.....	339
Beverly Weaver Cross by Mr. Harter	357
Beverly Weaver Redirect by Mr. White	364
Beverly Weaver Recross by Mr. Harter.....	365
Lonnie Smith Direct by Mr. Hawkins.....	366
Lonnie Smith (In Camera) Direct by Mr. Hawkins	399
Lonnie Smith Direct by Mr. Hawkins cont.....	409
Lonnie Smith Cross by Mr. Harter	412
Sharon Middleton Direct by Mr. Hawkins	419
Sharon Middleton Cross by Mr. Harter.	452
Sharon Middleton Redirect by Mr. Hawkins.....	463
Sharon Middleton Recross by Mr. Harter.....	464

Matters of Law	466
Samantha Porter Direct by Mr. Hawkins	484
Samantha Porter Cross by Mr. Harter	493
Samantha Porter Redirect by Mr. Hawkins	505
Samantha Porter Recross by Mr. Harter	507
Deposition Testimony of Debra Lynn Knowles	512
Tony Young Direct by Mr. Hawkins	524
Tony Young Cross by Mr. Harter	560
Michael Holtzclaw Direct by Mr. White	595
Michael Holtzclaw Cross by Mr. Harter	598
Plaintiff Rests.....	599
Lonnie Smith Direct by Mr. Harter.....	600
Lonnie Smith Cross by Mr. White.....	603
Defendant Rests	604
Motion - Directed Verdict.....	606
Jury Charge Conference.....	607
Closing Argument by Mr. Hawkins.....	630
Closing Argument by Mr. Harter.....	648
Rebuttal Closing Argument by Mr. Hawkins	674
Charge on the Law.....	686
Verdict.....	702
<u>Plaintiff's Exhibits</u>	
Exhibit 1 - Minimum Standards.....	707

Exhibit 2 - Classification Policy	814
Exhibit 3 - Code of Ethics.....	823
Exhibit 4 - General Population	829
Exhibit 5 - Health Care	848
Exhibit 6 - Information System and Research	882
Exhibit 7 - Inmate Handbook.....	889
Exhibit 8 - Inmate Rights.....	896
Exhibit 9 - Post Orders.....	904
Exhibit 10 - Management Policy	906
Exhibit 11 - Mission Statement.....	909
Exhibit 12 - Training and Staff Development.....	910
Exhibit 13 - Transportation of Inmates Outside of Facility	913
Exhibit 14 - Skeleton Diagram	DEMONSTRATIVE TO LARGE TO PROVIDE
Exhibit 15 - Greenville Hospital Medical Record	924
Exhibit 16 - Patient Discharge Information	926
Exhibit 17 - Patient Discharge Instructions	930
Exhibit 18 - Intake Medication Form.....	931
Exhibit 19 - Temporary Custody Form.....	932
Exhibit 20 - Sick Calls Inmate	933
Exhibit 21 - Progress Notes	943
<u>Defendants' Exhibits</u>	
Exhibit 1 - Medical Staff Screening Form.....	948
Exhibit 2 - GHS Progress Notes	949

Exhibit 3 - Doctors Orders	957
Exhibit 4 - Patient Discharge Instructions	958
Exhibit 5 - Patient Discharge Information	959
Exhibit 6 - GHS Appointment	962
Exhibit 7 - Medical Screening Form.....	963
Exhibit 8 - Special Needs Inmate Report.....	964
Exhibit 9 - Admission Data Form	965
Exhibit 10 - Progress Notes	967
Exhibit 11 - SHP Doctor Orders	976
Exhibit 12 - Medication Administration Records.....	980
Exhibit 13 - 1/26/12 E-mail	999
Exhibit 14 - 12/8/11 Email.....	1000
Exhibit 15 - Incident #12-0408	1001
Exhibit 16 - SHP Patient Complaints.....	1002
 <u>Court's Exhibit</u>	
Exhibit 1 - Deposition Transcript of Deborah Knowles	1010

Other Documents

<i>Voire Dire</i> dated September 21, 2018.....	1025
Plaintiff's Requests to Charge	1026
Purposed Verdict Form	1043
Certificate of Counsel	1044

MEDICATION ADMINISTRATION RECORD

Medication	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
naproxen 500mg	A																														
PO BID x 10 days	P																														
Bu 200mg x 3	A																														
abs PO BID	P																														
metoprolol 10mg	A																														
tab PO BID	P																														
naproxen 500mg	A																														
PO BID	P																														

STARTING FOR	8-16-11	THROUGH	8-31-11
Physician	M. Massey	Telephone No.	
Physician		Alt. Telephone	
Site	NKOF	Renal/Transplant	
		Potential	

Medicaid Number	Medicare Number	Completed/Checked	Title	Date
		By: [Signature]	MTA	8-17-11
Patient	Tony Young	DOB: [Redacted]	MR: [Redacted]	8-16-11

GCDC Young Medical 000123

GCDC Young Medical 000124

GREENWOOD CO. (SC) DET CTR
YOUNG, TONY
REPORT DATE : 09/11

MEDICATION ADMINISTRATION RECORD

*Continue Loratadine & extra

Medication	09/24/11	09/25/11	09/26/11	09/27/11	09/28/11	09/29/11	09/30/11	10/01/11	10/02/11	10/03/11	10/04/11	10/05/11	10/06/11	10/07/11	10/08/11	10/09/11	10/10/11	10/11/11	10/12/11	10/13/11	10/14/11	10/15/11	10/16/11	10/17/11	10/18/11	10/19/11	10/20/11	10/21/11	10/22/11	10/23/11	10/24/11	10/25/11	10/26/11	10/27/11	10/28/11	10/29/11	10/30/11	10/31/11
NAPROXEN 500 MG TABLET TAKE 1 TABLET TWICE DAILY ONCE	AM 5 PM 5	AM 5 PM 5	AM 5 PM 5	AM 5 PM 5	AM 5 PM 5	AM 5 PM 5	AM 5 PM 5	AM 5 PM 5	AM 5 PM 5	AM 5 PM 5	AM 5 PM 5	AM 5 PM 5	AM 5 PM 5	AM 5 PM 5	AM 5 PM 5	AM 5 PM 5	AM 5 PM 5	AM 5 PM 5	AM 5 PM 5	AM 5 PM 5	AM 5 PM 5	AM 5 PM 5	AM 5 PM 5	AM 5 PM 5	AM 5 PM 5	AM 5 PM 5	AM 5 PM 5	AM 5 PM 5	AM 5 PM 5	AM 5 PM 5	AM 5 PM 5	AM 5 PM 5	AM 5 PM 5	AM 5 PM 5	AM 5 PM 5	AM 5 PM 5	AM 5 PM 5	
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CHARTING FOR: 09/01/11	THROUGH 09/30/11	PAGE 1 OF 1
Physician: MABEY, TAMI	Telephone No:	Medical Record No:
Alt. Physician: NO KNOWN ALLERGIES	Alt. Telephone:	
Nurse:	Signature:	
GCSO Young 000057		
Medicaid Number:	Medicare Number:	Complaints Checked:
By: [Signature]	Date: 09/11	Room: J
RESIDENT YOUNG, TONY	Admission Date: 08/17/11	Discharge Date: 08/17/11

TAL SIGN	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
TEMPERATURE																															
PULSE																															
RESPIRATION																															
BLOOD PRESSURE																															

DAY SHIFT color ink		EVENING SHIFT color ink		NIGHT SHIFT color ink		SIGNATURE/INITIALS	
DATE	TIME	DATE	TIME	DATE	TIME	DATE	TIME

MY VSA 2/10

KS Kate Snow LPN	RM Kayla Anderson	
Christine Jones LPN	AM Stephen McMichael	
	VR Robin Sullivan	

GCSO Young 000058

DEFINITIONS				BLOOD PRESSURE			
1. RIGHT CORONAL PLANE	5. RIGHT LATERAL VIEW	9. RIGHT UPPER ARM	13. UPPER BACK LEFT	17. TO RIGHT AND ABOVE LEVEL OF UMBILICUS			
2. LEFT CORONAL PLANE	6. LEFT LATERAL VIEW	10. LEFT UPPER ARM	14. UPPER BACK RIGHT	18. TO LEFT AND ABOVE LEVEL OF UMBILICUS			
3. RIGHT VENTRAL PLANE	7. RIGHT DORSAL	11. RIGHT ANTERIOR THIGH	15. UPPER CHEST LEFT	19. TO RIGHT AND BELOW LEVEL OF UMBILICUS			
4. LEFT VENTRAL PLANE	8. LEFT DORSAL	12. LEFT ANTERIOR THIGH	16. UPPER CHEST RIGHT	20. TO LEFT AND BELOW LEVEL OF UMBILICUS			

MEDICATION ADMINISTRATION RECORD

GREENWOOD CO (SC) DET CTR
YOUNG, TONY
REPORT DATE : 10/11

MEDICATIONS	HOURS	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	
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LORATADINE 10 MG TABLET CLARITIN 10 MG TABLET TAKE 1 TABLET TWICE DAILY 2am	08/24/12	AM	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
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CHARTING FOR	10/01/11	THROUGH	10/31/11	PAGE	1 OF 1
Physician	MASSEY, TAMI	Telephone No.			
At Physician		Alt. Telephone			
Allergies	NO KNOWN ALLERGIES	Rehabilitative Potential			
GCSO Young 000059					
Medicaid Number	Medicare Number	Complete Entry Directed By:	Title:	03-11	
RESIDENT	YOUNG, TONY	DOB: [REDACTED]	Sex: J	Room: [REDACTED]	Admission Date: 08/17/11

DAY SIGNS	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	
TEMPERATURE																																
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DAY SHIFT color ink											EVENING SHIFT color ink										NIGHT SHIFT color ink											
NAME	GCSO Young 000060																															
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LOCATION																																
REMARKS																																
INSTRUCTIONS	1. TO RIGHT AND ABOVE LEVEL OF UMBILICUS 2. TO LEFT AND ABOVE LEVEL OF UMBILICUS 3. TO RIGHT AND BELOW LEVEL OF UMBILICUS 4. TO LEFT AND BELOW LEVEL OF UMBILICUS 5. TO RIGHT AND ABOVE LEVEL OF UMBILICUS 6. TO LEFT AND ABOVE LEVEL OF UMBILICUS 7. TO RIGHT AND BELOW LEVEL OF UMBILICUS 8. TO LEFT AND BELOW LEVEL OF UMBILICUS 9. TO RIGHT AND ABOVE LEVEL OF UMBILICUS 10. TO LEFT AND ABOVE LEVEL OF UMBILICUS 11. TO RIGHT AND BELOW LEVEL OF UMBILICUS 12. TO LEFT AND BELOW LEVEL OF UMBILICUS 13. TO RIGHT AND ABOVE LEVEL OF UMBILICUS 14. TO LEFT AND ABOVE LEVEL OF UMBILICUS 15. TO RIGHT AND BELOW LEVEL OF UMBILICUS 16. TO LEFT AND BELOW LEVEL OF UMBILICUS 17. TO RIGHT AND ABOVE LEVEL OF UMBILICUS 18. TO LEFT AND ABOVE LEVEL OF UMBILICUS 19. TO RIGHT AND BELOW LEVEL OF UMBILICUS 20. TO LEFT AND BELOW LEVEL OF UMBILICUS 21. TO RIGHT AND ABOVE LEVEL OF UMBILICUS 22. TO LEFT AND ABOVE LEVEL OF UMBILICUS 23. TO RIGHT AND BELOW LEVEL OF UMBILICUS 24. TO LEFT AND BELOW LEVEL OF UMBILICUS 25. TO RIGHT AND ABOVE LEVEL OF UMBILICUS 26. TO LEFT AND ABOVE LEVEL OF UMBILICUS 27. TO RIGHT AND BELOW LEVEL OF UMBILICUS 28. TO LEFT AND BELOW LEVEL OF UMBILICUS 29. TO RIGHT AND ABOVE LEVEL OF UMBILICUS 30. TO LEFT AND ABOVE LEVEL OF UMBILICUS 31. TO RIGHT AND BELOW LEVEL OF UMBILICUS 32. TO LEFT AND BELOW LEVEL OF UMBILICUS																															

MEDICATION ADMINISTRATION RECORD

GREENWOOD CO (SC) DET CTR
YOUNG, TONY
REPORT DATE : 11/11

Medications	Hour	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31		
CORAMIN GUAZIN PADS 3" USE AS DIRECTED	08/25/12		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	
HIBICLEN 4% LIQUID USE AS DIRECTED	08/26/12		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	
TRIFA 2" X 3" NON/ADH USE AS DIRECTED	08/28/12		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	
LORATADINE 10 MG TABLET CLARITIN 10 MG TABLET TAKE 1 TABLET ONCE-DAILY 9am	08/26/12	AM		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
	PM		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	
MILNACIPRINE 500 MG TABLET TAKE 1 TABLET TWICE DAILY	08/16/12	AM		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
	PM		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	
GABAPENTIN 100 MG CAPSULE NEURONTIN 100 MG CAPSULE TAKE 1 CAPSULE AT BEDTIME	08/19/12	BEDTIME		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
100mg Profer 100mg 3tab PO BID		A		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
		P		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
Amoxil 500mg 1 tab PO qam 2 tab PO qhs X 10 days		A		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
		P		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31

CHARTING FOR: 11/01/11	THROUGH: 11/30/11	PAGE: 1 OF 1
Physician: MASSEY, TAMI	Telephone No.	Medical Record No.
MR. Physician	Alt. Telephone	
Allergies: NO KNOWN ALLERGIES	Prescription Potential	
GCSO Young 000061		
Resident: YOUNG, TONY	Medicare Number	Complete Blood Count
		By: [Signature] Title: MTA Date: 11/11
		DOB: [Redacted] Sex: [Redacted] Race: [Redacted] Patient: YOUNGT Address: [Redacted] Date: 08/17/11

GREENWOOD CO (SC) DET CTR
YOUNG, TONY
REPORT DATE : 12/11

ING FOR 12/01/11		THROUGH 12/31/11		PAGE 1 OF 1	
Name: MASSEY, TAMI			Telephone No.		Medical Record No.
Address:			Alt. Telephone		
NO KNOWN ALLERGIES			Rehabilitative Potential		
GCSO Young 000053					
Social Number		Medicare Number		Complete Review Checked By: <i>Sherry R. Boudreau</i>	
IDENT		YOUNG, TONY		DOB: [REDACTED] Sex: M Room: [REDACTED] Patient Code: YOUNGT	Title: MTA Date: 11-30-11 Approved Date: 08/1/11

MEDICATION ADMINISTRATION RECORD

MEDICATIONS	HOUR	1	2	3	4	5	6	7	8	9	10	11	12	1	2	3	4	5	6	7	8	9	10	11	12	1	2	3	4	5	6	7	8	9	10	11	12
gabapentin 100mg po BID	A	1	2	3	4	5	6	7	8	9	10	11	12	1	2	3	4	5	6	7	8	9	10	11	12	1	2	3	4	5	6	7	8	9	10	11	12
	P	1	2	3	4	5	6	7	8	9	10	11	12	1	2	3	4	5	6	7	8	9	10	11	12	1	2	3	4	5	6	7	8	9	10	11	12
gabapentin 300mg po qAS	A	1	2	3	4	5	6	7	8	9	10	11	12	1	2	3	4	5	6	7	8	9	10	11	12	1	2	3	4	5	6	7	8	9	10	11	12
	P	1	2	3	4	5	6	7	8	9	10	11	12	1	2	3	4	5	6	7	8	9	10	11	12	1	2	3	4	5	6	7	8	9	10	11	12

STARTING FOR 12-28-11		THROUGH 12-31-11	
Name: Tami Klessey MD		Telephone No.	
Physician: NKDA		Alt. Telephone	
Nurse: NKDA		Nursing Supervisor	
GCSO Young 000055			
Resident Number	Medicare Number	Completed By: [Signature]	Checked By: [Signature]
Resident: Tony Youngs		Room: 13205	Admission Date: 8-16-11

MEDICATION ADMINISTRATION RECORD

GREENWOOD CO (SC) DET CTR
YOUNG, TONY
REPORT DATE : 01/12

DATE	TIME	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
11/29/12	0800	LORAZEPAM 10 MG TABLET CLONIDINE 10 MG TABLET TAKE 1 TABLET IN THE MORNING																														
11/29/12	0800	IBUPROFEN 600 MG TABLET TAKE 1 TABLET TWICE DAILY																														
09/19/12	0800	GABAPENTIN 300 MG CAPSULE TAKE 3 CAPSULES AT BEDTIME																														
09/19/12	0800	NOXICILLIN 500mg cap Qam caps Qhs 1000 200mg x3 PO BID x 7d																														
09/19/12	0800	Neurontin 100mg 200mg po qam 100mg po qhs 300 200mg x3 tabs PO BID x 2 days																														
09/19/12	0800	Neurontin 100mg 600mg BID																														

FROM: 01/01/12	THROUGH: 01/31/12	PAGE: 1 OF 1
NAME: MASSEY, TAMI	Telephone No:	Medical Record No.
ALLERGIES: NO KNOWN ALLERGIES	ALL: Telephone:	
	Physician:	
	Physician:	
GCSO Young 000051		
Signature: [Signature]	Date: 1-3-12	
DOB: [Redacted]	Room: 3205	Admission Code: YOUNGT
Admission Date: 08/16/11		

DATE	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
PAIN																															
TEMP																															
PULSE																															
BLOOD PRESSURE																															
RESPIRATION																															
DIET																															
URINARY																															
STOOL																															
OTHER																															
REMARKS	Oxyproctin given - Initiated in error - Aborted																														
Wm. K. Anglin, M.D. cc. [Signature]																															
GCSO Young 000050																															

MEDICATION ADMINISTRATION RECORD

MEDICATIONS	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
Prednisone	A 5000 2/22																														
mg tabs x 3 days	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31																														
in 4 tabs x 3 days	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31																														
in 2 tabs x 3 days	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31																														
in 1 tab x 3 days	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31																														
Lorazepam 1mg	A 2-23-12																														
1 po q am	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31																														
Tylenol 500mg	A 2-23-12																														
xl po BID x 3 days	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31																														

RTING FORM 2/22		THROUGH:	
NAME: MASSA	Telephone No.	Medical Record No.	
DATE: 2/23/12	Alt. Telephone:	Referral/Referral:	
GCSO Young 000047			
to	Medicare Number:	Completed By: [Signature]	Title: MHA
by: Tony Young	Medicare Number:	By: [Signature]	Date: 2-23-12
by: [Signature]	Medicare Number:	By: [Signature]	Date: 8/10/11

MEDICATION ADMINISTRATION RECORD

GREENWOOD CO (SC) DET CTR
YOUNG, TONY
PORT DATE : 04/12

MEDICATIONS	DOSE	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	
LORATADINE 10 MG TABLET TAKE 1 TABLET IN THE MORNING	01/29/12	0800																															
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
GABAPENTIN 300 MG CAPSULE TAKE 1 CAPSULE IN THE MORNING	01/17/12	0800																															
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
LORATADINE 10 MG TABLET TAKE 1 TABLET IN THE MORNING	11/29/12	0800																															
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
PREDNISONE 10 MG TABLET TAKE 6 TABLETS DAILY X3 DAYS, 4 TABLETS DAILY X3 DAYS, 2 TABLETS DAILY X3 DAYS, THEN 1 TABLET DAILY	03/03/12	0800																															
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
IBUPROFEN 600 MG TABLET TAKE 1 TABLET TWICE DAILY	11/29/12	0800																															
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
INDOMETHACIN 50 MG CAPSULE TAKE 1 CAPSULE TWICE DAILY	02/07/12	0800																															
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
GABAPENTIN 300 MG CAPSULE TAKE 2 CAPSULES AT BEDTIME	01/17/12	2000																															
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
gabapentin 300mg 2 PO QHS																																	
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31

RTING FOR	04/01/12	THROUGH	04/30/12	PAGE	1 OF 1
NAME	MASSEY, TONY	Telephone No.			
Position		Alt. Telephone			
Notes	NO KNOWN ALLERGIES	Rehabilitative Potential			
Med. Number		Medicare Number			
Consent	GCSO Young 000043				
By					
Date					
Room					
Admission					
Discharge					
Admission Date	08/17/11				
Discharge Date					

998
1016

Print

Page 1 of 1

Subject: Re: Tony Youn [REDACTED]
From: tamimasseynd@yahoo.com (tamimasseynd@yahoo.com)
To: srbouk@yahoo.com;
Date: Thursday, January 26, 2012 10:06 PM

600mg bid is ok
Sent from my Verizon Wireless BlackBerry

From: Sherry Bouknight <srbouk@yahoo.com>
Date: Thu, 26 Jan 2012 13:45:14 -0800 (PST)
To: Tami Massey <tamimasseynd@yahoo.com>
ReplyTo: Sherry Bouknight <srbouk@yahoo.com>
Cc: Kayla <kaylamc88@gmail.com>; Courtney <courtney_12507@yahoo.com>
Subject: Tony Youn [REDACTED]

Tony Young, [REDACTED]

Can his Gabopentin 300mg qam and 600mg qhs be increased. This is the guy that you saw last week for neck pain and increased from 300mg bid to above dose.

Awaiting orders.

I am getting ready to leave for the day and I won't be here on Friday, please respond to Kayla () she will be here until 12 and Courtney will be here after that until 7pm (courtney_)

Thanks,
Sherry, MTA 7242

<http://us.mg5.mail.yahoo.com/neo/launch?.rand=f00jpscs0ieci>

GCDC Young 000119
01/30/2012



Print

Page 1 of 1

Subject: Re: Tony Young, 9-5-68, NKDA
From: Sherry Bouknight (srbouk@yahoo.com)
To: tamimasseymd@yahoo.com;
Date: Thursday, December 8, 2011 8:45 AM

yes. I will advise him in that direction. Thanks

From: "tamimasseymd@yahoo.com" <tamimasseymd@yahoo.com>
To: Sherry Bouknight <srbouk@yahoo.com>
Sent: Wednesday, December 7, 2011 8:10 PM
Subject: Re: Tony Young, [REDACTED] NKDA

Is it available on canteen?
Sent from my Verizon Wireless BlackBerry

From: Sherry Bouknight <srbouk@yahoo.com>
Date: Wed, 7 Dec 2011 12:14:40 -0800 (PST)
To: tamimasseymd@yahoo.com <tamimasseymd@yahoo.com>
ReplyTo: Sherry Bouknight <srbouk@yahoo.com>
Subject: Re: Tony Young, [REDACTED] NKDA

He said he has been in so much pain since it was stopped (1 dose missed of IBU). He said neck, back, arms and head. This is also the guy you saw with c/o neuropathy in hand and arm that was broken but said he was not and had not been doing the therapy and stretches instructed by the ortho md

From: "tamimasseymd@yahoo.com" <tamimasseymd@yahoo.com>
To: Sherry Bouknight <srbouk@yahoo.com>
Sent: Wednesday, December 7, 2011 3:09 PM
Subject: Re: Tony Young, [REDACTED] NKDA

Does he still need it? Where are his complaints? I imagine it can be stopped
Sent from my Verizon Wireless BlackBerry

From: Sherry Bouknight <srbouk@yahoo.com>
Date: Wed, 7 Dec 2011 11:04:13 -0800 (PST)
To: Tami Massey <tamimasseymd@yahoo.com>
ReplyTo: Sherry Bouknight <srbouk@yahoo.com>
Subject: Tony Young, [REDACTED] NKDA

Dr. Massey,
I/m has been on IBU 200mg x3 BID since 9/24/11. I discontinued the medication due to the duration of taking it. Discontinued his Naproxen at his request. I discontinued the first dose last night and this morning at am pass he is asking if he can have 1 dose a day at night? This is the man that was in the car wreck that hit a tractor going down the road. He has been cleared and released from all doctors that he was seeing. Awaiting your response.
Thank,
Sherry Bouknight

Handwritten: 12-13-11

GCDC Young 000120

<http://us.mg5.mail.yahoo.com/neo/launch?.rand=d7j71q71cejm3>

12/08/2011



Incident # 12-0408

Original
Given to
Capt. Middleton

INCIDENT DATE: 02/12/2012

INCIDENT TIME: 2015

INCIDENT LOCATION: BOOKING AREA

YOUNG, TONY

RECEIVED 1 5 57 - 50

OFFICER HEATH GAVE ME MESSAGE TO CALL GLORIA BORDELON AT 864-209-6724. WHEN I CALLED HER SHE WANTED TO SPEAK TO ME ABOUT WHY INMATE YOUNG HAD NOT BEEN RECEIVING HIS MEDICATION FOR GOUT. I TOLD HER THAT THE NURSE IS GONE FOR THE NIGHT AND THAT IS WHO SHE WOULD NEED TO SPEAK TO. SHE SAID HE HAS GONE WITHOUT HIS MEDICATION FOR SEVERAL DAYS AND WAS IN PAIN. SHE SAID IT WAS TO THE EXTENT THAT HE WAS NOT EATING BECAUSE OF THE PAIN. I TOLD HER I JUST SPOKE TO INMATE YOUNG AND HE DID NOT MENTION ANY PROBLEMS. SHE SAID WELL HE HAS HAD MANY PROBLEMS AT OUR FACILITY AND HAS FILLED OUT GRIEVANCES ABOUT HIS PROBLEMS. SHE ALSO WANTED TO COMPLAIN ABOUT SEVERAL OFFICERS. I ASKED WHO THE OFFICERS WAS AND IF THEY WERE ON MY SHIFT I WOULD ADDRESS THE ISSUES WITH THE OFFICERS. SHE DID GIVE ME SEVERAL NAMES BUT THESE OFFICERS ARE ON ANOTHER SHIFT. SHE ALSO WANTED COPIES OF ALL GRIEVANCES INMATE YOUNG HAS FILLED OUT. I TOLD HER I DIDN'T KNOW IF THAT WAS POSSIBLE. I TOLD HER THE BEST THING TO DO WAS TO CONTACT OUR MEDICAL DEPARTMENT TOMORROW ABOUT THE MEDICAL ISSUES AND CONTACT MAJOR SMITH REGARDING THE PROBLEMS WITH OFFICERS. MRS. BORDELON SAID SHE WOULD JUST CONTACT HER LAWYER TOMORROW.

ACTION TAKEN: WROTE REPORT AND PLACED A COPY OF REPORT IN LT BUTLER'S BOX, CAPTAIN MIDDLETON'S BOX, AND MAJOR SMITH'S BOX.

REPORTING OFFICER: SGT BOLLMAN

No medication has been skipped or missed.
On 2/12/12 1/m is 5 days into his Indocin
Medication for Gout. 1/m has voiced a lot of pain
but was asked by MTA 2/13/12 during an
med pass "how he was" & he stated "much
better" & he was looking fine. Y/m also saw
MO on 2/13/12 & refused medication for pain/inflammation
Slight improvement

02/15/2012 10:03

1 of 1

GCDC Young Medical 000034



1001
1019

Clinical Pathways / Patient Clinical Data Form

Use for (circle): **MOUTH IRRITATION** **TOOTHACHE** **JAW PAIN**

Instructions: Upon patient's complaint(s), please complete the form in its entirety. Check YES answers. If not checked, it is considered a NO answer. Refer to the Treatment Guidelines Manual for further implementation, or feel free to contact your site physician for orders as needed. The completed form should be placed in the medical chart for future reference and/or review by the site physician.

Patient's Name: Tony Young DOB: [REDACTED]

Onset of Symptoms couple days Duration _____
 Pain Location front upper teeth Describe Pain hurts to eat
 Level of Pain (1-10) 6 Does Pain increase with eating? yes Affected by Hot/Cold Food yes
 Have you had this pain before _____ If YES, what was the cause and how was it treated? _____
 Recent dental work? _____ Recent injury to mouth _____ to jaw _____
 Are you taking any medications? _____ If yes car wreck broke tooth off
 Any Allergies: N/A
 Further comments _____

CLINICAL DATA: B/P 140/98 Pulse 63 RESP _____ Temp _____ Wt _____
 Swelling ☒ Redness ☒ Drainage _____ Bruising/Lesions _____ Decayed tooth/teeth ☒
 Abscessed tooth/teeth ☒ Missing Filling(s) _____ Bleeding _____ where _____
 If Bruising/Lesions, describe: _____
 Able to speak ☒ White spots on Tongue, Cheeks, or oral cavity _____ Face symmetrical _____
 Bone projections _____ Obvious recent jaw injury _____
 Facial edema or warmth to affected side ☒
 Does patient have a Chronic Illness NO If yes, describe _____

TREATMENT PLAN: Suspect Fx Jaw _____ TMJ _____ Toothache ☒ Follow tx protocol _____
 If no, describe plan Amoxicillin 500mg 1 cap PO qam 2 cap PO qhs

Physician's Order: _____

IM advised to alert staff of changes: Yes ☒ Patient education information supplied/discussed? Yes ☒
 Placed on dental list if applicable? Yes _____

Medical Signature: [Signature] Date: 11/5/11

- also informed I/M to put in grievance to apt. to get tooth pulled.



Clinical Pathways / Patient Clinical Data Form

Use for (circle): **STRAIN(s)** **SPRAIN(s)** **PAIN** **BACK PAIN** **EDEMA**

Instructions: Upon patient's complaint(s), please complete the form in its entirety. Check YES answers. Unchecked answers are considered NO answers. Refer to the Treatment Guidelines Manual for further implementation, or feel free to contact your site physician for orders as needed. The completed form should be placed in the medical chart for future reference and/or review by the site physician.

Patient's Name: Tommy Young DOB: [REDACTED]

When did this occur week to Where did this occur _____
 How did this happen back to back
 Location of injury neck / back Level of pain (1/10) 6 Constant yes Intermittent yes
 Does pain increase with movement yes Any hx of this pain before yes week
 Numbness N If yes, where _____ Tenderness N
 Swelling N Bruising N Color of bruises _____ Dizziness N Weakness N Nausea N
 Vomiting N Urine changes: Color _____ Odor _____ Frequency _____
 Any chronic conditions or bleeding tendencies _____
 Amount of fluids consumed daily _____ Any fever N Chills NO
 Taking any meds? yes If yes, list (include OTC) Lorazepam Gabapentin
 Any allergies NKA
 Further comments _____

CLINICAL DATA: B/P 121/82 Pulse 105 RESP 18 Temp _____
 Deformity _____ (if yes) Describe _____
 Size of bruise if present _____ Any crepitus at areas of tenderness _____
 Any guarding _____ (if yes) Describe _____
 Any limit to range of motion _____ Posture during assessment _____
 Peripheral pulse quality _____ Edema present _____ Pitting edema _____
 Skin: Warm _____ Dry _____ Cool _____ Moist _____ Flushed _____ Pale _____ Race Appropriate _____
 Does injury correspond with history given _____ If not, why _____
 Comments _____

TREATMENT PLAN: Follow tx protocol _____ If Urine Dip done-note Results on Urine Dip Form & attach to this CP
 If no, describe plan suggested Carotid Sheath Sleeve but gave 1x dose of Teflon today
 Physician's Order: [Signature]

Inmate advised to alert staff of changes and/or improvement: Yes ✓ No _____
 Patient education information supplied and/or discussed? Yes ✓ No _____

Medical Staff Signature: [Signature] Date: 12-12-11

Physician/Provider initials as confirmation of strain _____

GCSO Young 000100

Confidential Medical Work Product

Revision: 10/07 Rev 7/10



Clinical Pathways / Patient Clinical Data Form

Use for (circle): STRAIN(s) SPRAIN(s) PAIN BACK PAIN EDEMA

Instructions: Upon patient's complaint(s), please complete the form in its entirety. Check YES answers. Unchecked answers are considered NO answers. Refer to the Treatment Guidelines Manual for further implementation, or feel free to contact your site physician for orders as needed. The completed form should be placed in the medical chart for future reference and/or review by the site physician.

Patient's Name: Tony Young DOB [REDACTED]

When did this occur prior to arrest Where did this occur

How did this happen truck

Location of injury neck/back Level of pain (1/10) 6 Constant Intermittent

Does pain increase with movement Any hx of this pain before

Numbness If yes, where Tenderness

Swelling Bruising Color of bruises Dizziness Weakness Nausea

Vomiting Urine changes: Color Odor Frequency

Any chronic conditions or bleeding tendencies

Amount of Fluids consumed daily Any fever Chills

Taking any meds? If yes, list (include OTC) Loratadine

Any allergies NKOA

Further comments

CLINICAL DATA: BP 128/80 Pulse 69 RESP 18 Temp

Deformity (if yes) Describe

Size of bruise if present Any crepitus at areas of tenderness

Any guarding (if yes) Describe moves slow & turns slow

Any limit to range of motion Posture during assessment erect

Peripheral pulse quality Edema present Pitting edema

Skin: Warm Dry Cool Moist Flushed Pale Race Appropriate

Does injury correspond with history given If not, why

Comments

TREATMENT PLAN: Follow tx protocol If Urine Dip done-note Results on Urine Dip Form & attach to this CP

If no, describe plan 1st 20mg X 3 X 1 dose

Physician's Order:

Inmate advised to alert staff of changes and/or improvement: Yes No

Patient education information supplied and/or discussed? Yes No

Medical Staff Signature: [Signature] Date: 12-20-11

Physician/Provider initials as confirmation of strain [Signature] 12-21-11

GCSO Young 000099

Confidential Medical Waste Product

File # 1017 Rev 7/10

1/ Patient Clinical Data Form

MOUTH IRRITATION TOOTHACHE JAW PAIN

patient's complaint(s), please complete the form in its entirety. Check YES answers. If not checked, it is considered a
to the Treatment Guidelines Manual for further implementation, or feel free to contact your site physician for orders as
pleted form should be placed in the medical chart for future reference and/or review by the site physician.

Name: Tony Young DOB: [REDACTED]

Symptoms Location TOP 2 Describe Pain Feels like HS swelling Duration Since 12-22-11 pm
of Pain (1-10) 2 Does Pain increase with eating? ✓ Affected by Hot/Cold Food? ✓
a you had this pain before? ✓ If YES, what was the cause and how was it treated? Abx.
cent dental work? ✓ Recent injury to mouth ✓ to jaw ✓ - in auto accident &
re you taking any medications ✓ If yes allergy broke teeth
Any Allergies: NKA
Further comments:

CLINICAL DATA: B/P 134/95 Pulse 74 RESP 20 Temp 97.9 W
Swelling ✓ Redness ✓ Drainage ✓ Bruising/Lesions ✓ Decayed tooth/teeth ✓
Abscessed tooth/teeth ✓ Missing Filling(s) ✓ Bleeding ✓ where ✓
If Bruising/Lesions, describe: White spots on Tongue, Cheeks, or oral cavity ✓ Face symmetrical ✓
Able to speak ✓ Bone projections ✓ Obvious recent jaw injury ✓
Facial edema or warmth to affected side ✓ Slight Ant of swelling to cheek
Does patient have a Chronic Illness ✓ If yes, describe:

TREATMENT PLAN: Suspect Fx Jaw ✓ TMJ ✓ Toothache ✓ Waxes
If no, describe plan Amoxicillin 500mg 1 PO QAM 2 PO QHS Follow by protocol

Physician's Order:

IM advised to alert staff of changes: Yes ✓ Patient education information supplied/discussed? Yes ✓
Placed on dental list if applicable? Yes ✓

Medical Signature: [Signature] Date: 12-23-11

Clinical Pathways / Patient Clinical Data Form



Use for (circle): MOUTH IRRITATION **TOOTHACHE** JAW PAIN

Instructions: Upon patient's complaint(s), please complete the form in its entirety. Check YES answers. If not checked, it is considered a NO answer. Refer to the Treatment Guidelines Manual for further implementation, or feel free to contact your site physician for orders as needed. The completed form should be placed in the medical chart for future reference and/or review by the site physician.

Patient's Name: Tony Young DOB: [REDACTED]
 Onset of Symptoms 3 days ago Duration _____
 Pain Location Back (R) tooth Describe Pain "throbbing"
 Level of Pain (1-10) 1 Does Pain increase with eating? yes Affected by Hot/Cold Food yes
 Have you had this pain before? ✓ If YES, what was the cause and how was it treated? no tx
 Recent dental work? 0 Recent Injury to mouth 0 to jaw 0
 Are you taking any medications yes If yes *see MAR*
 Any Allergies: NKA
 Further comments: _____

CLINICAL DATA: B/P 112/92 Pulse 74 RESP 18 Temp 98.4 Wt _____
 Swelling slight Redness ✓ Drainage 0 Bruising/Lesions 0 Decayed tooth/teeth ✓
 Abscessed tooth/teeth 0 Missing Filling(s) 0 Bleeding 0 where Back (R) tooth
 If Bruising/Lesions, describe: none
 Able to speak yes White spots on Tongue, Cheeks, or oral cavity 0 Face symmetrical ✓
 Bone projections 0 Obvious recent jaw injury 0
 Facial edema or warmth to affected side 0
 Does patient have a Chronic Illness 0 If yes, describe _____

TREATMENT PLAN: Suspect Fx Jaw _____ TMJ _____ Toothache ✓ Follow tx protocol _____
 If no, describe plan IBU 200 mg $\ddot{q}$ po x 1 day dose
Ppx already ordered

Physician's Order: _____

IM advised to alert staff of changes: Yes _____ Patient education information supplied/discussed? Yes _____
 Placed on dental list if applicable? Yes _____

Medical Signature: Kimber Jullio, RN Date: 12/25/11

GCDC Young 000179

Confidential Medical Work Product

Effective: 10/07 Rev 7/10

Clinical Pathways / Patient Clinical Data Form

Use for (circle): **TOOTHACHE** MOUTH IRRITATION JAW PAIN

Instructions: Upon patient's complaint(s), please complete the form in its entirety. Check YES answers. If not checked, it is considered a NO answer. Refer to the Treatment Guidelines Manual for further implementation, or feel free to contact your site physician for orders as needed. The completed form should be placed in the medical chart for future reference and/or review by the site physician.

Patient's Name: Tony Young DOB: [REDACTED]

Onset of Symptoms _____ Duration _____

Pain Location _____ Describe Pain _____

Level of Pain (1-10) _____ Does Pain increase with eating? _____ Affected by Hot/Cold Food _____

Have you had this pain before _____ If YES, what was the cause and how was it treated? _____

Recent dental work? _____ Recent injury to mouth _____ to jaw _____

Are you taking any medications _____ If yes _____

Any Allergies: _____

Further comments _____

Link to Administration

CLINICAL DATA: B/P _____ Pulse _____ RESP _____ Temp _____ Wt _____

Swelling _____ Redness _____ Drainage _____ Bruising/Lesions _____ Decayed tooth/teeth _____

Abcessed tooth/teeth _____ Missing Filling(s) _____ Bleeding _____ where _____

If Bruising/Lesions, describe: _____

Able to speak _____ White spots on Tongue, Cheeks, or oral cavity _____ Face symmetrical _____

Bone projections _____ Obvious recent jaw injury _____

Facial edema or warmth to affected side _____

Does patient have a Chronic illness _____ If yes, describe _____

TREATMENT PLAN: Suspect Fx Jaw _____ TMJ _____ Toothache _____ Follow tx protocol _____

If no, describe plan _____

Physician's Order: _____

IM advised to alert staff of changes: Yes ☒ Patient education information supplied/discussed? Yes _____

Placed on dental list if applicable? Yes _____

Medical Signature: Sherry Bouknight (LA) Date: 12-27-11
MTA

12-27-11

GCDC Young 000177

Clinical Pathways / Patient Clinical Data Form

Use for (circle): HEADACHE HEAD INJURY DIZZINESS VERTIGO

Instructions: Upon patient's complaint(s), please complete the form in its entirety. Check YES answers. Refer to the Treatment Guidelines Manual for further implementation, or feel free to contact your site physician for orders as needed. The completed form should be placed in the medical chart for future reference and/or review by the site physician.

Patient's Name: Tony Young DOB: [REDACTED]

Onset: 3-4 days Chronic ☐ Sudden ☐ Injury location was in car wreck before arrested
 Pain from Lights: ☐ Noise ☐ Movement ☐
 Any history of head injury? ☒ If yes, when Prior to arrest
 Did inmate report seizure history or head injury on screening form? Yes ☐ No ☐
 Did inmate report history of Migraine or Sinus problems? No ☒ Yes ☐ If Yes, what is noted:

Has inmate had any recent infections? ☒ If Yes, what tooth - to antibiotic
 Any allergies NO Any current medications NO
 Any Rx reported: ☐ If Yes, list (consider OTC)
 Has inmate had this problem before? ☒ If Yes, when Often
 What was the cause/treatment IBuprofen
 Any chronic conditions or bleeding tendencies no
 Has inmate been reported to have any behavioral changes or emotional events recently? no If Yes, please note

Further comments

CLINICAL DATA: B/P 111/80 Pulse 84 RESP 20 Temp 98.3
 Deformity no (if yes) Describe
 Neuro: Oriented ☒ Alert ☒ Confused ☐ Cooperative ☒ Calm ☒
 Lethargic ☐ Anxious ☐ Agitated ☐
 Is recall diminished? ☐ If yes, explain
 Gait steady? ☒ Station steady? ☒ Grips=? = Hematoma ☒ Dizzy ☒
 Vomiting no Neck tenderness no Weakness no Does inmate display photophobia? no
 PEARLA? equal EOMS intact? ☒ Resp Non-Labored ☒ Labored ☐
 Skin = Warm ☒ Dry ☒ Cool ☐ Moist ☐ Flushed ☐ Pale ☐ Race appropriate ☒
 Are ears flushed ☒ Ear drainage ☒
 Comments

TREATMENT PLAN: Call EMS ☐ Follow tx protocol ☒
 If no, describe plan Ibuprofen 600mg PO 1x dose
 Placed on some type of Monitoring/rechecks ☐ If no, why
 Physician's Order:

IM advised to alert staff of changes: Yes ☒ Patient education information supplied/discussed? Yes ☒

Medical Staff Signature: Kayla [Signature] Date: 1-15-12

Physician/Provider Initials as confirmation of review of information

GCDC Young 000172

Deborah Knowles
February 13, 2015

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Tony Young,)
Plaintiff,)
-vs-) C.A. No.: 8:11-2112-TMC
Greenwood County Detention)
Center and Greenwood County)
Sheriff's Office,)
Defendants.)

DEPOSITION OF DEBORAH KNOWLES
February 13, 2015

PURSUANT to Notice and/or agreement between
the parties, the deposition of Deborah Knowles, called
by the Defendants, was taken commencing at the hour
of 10:18 a.m. on Friday, February 13, 2015, at The
J.T. Hawkins Law Firm, LLC, 1225 South Church Street,
Greenville, South Carolina.

SUE N. HAYNIE, Reporter

Tony Young v. Greenwood County Detention Center, et al.

Deborah Knowles
February 13, 2015

Page 2

APPEARANCES:

THE J.T. HAWKINS LAW FIRM, LLC
1225 South Church Street
Greenville, South Carolina 29603
BY Josh T. Hawkins, Esquire
Brittany Miller

On behalf of the Plaintiff

CHAPMAN, HARTER & HARTER, P.A.

14 Lavinia Avenue

P. O. Box 10224

Greenville, South Carolina 29603

BY Russell W. Harter, Jr., Esquire

Carly M. Harter, Esquire

On behalf of the Defendants

ALSO PRESENT:

Lonnie Smith, Greenwood County Sheriff's Office

Tony Young v. Greenwood County Detention Center, et al.

Deborah Knowles
February 13, 2015

Page 3

STIPULATIONS:

This deposition is taken pursuant to the South Carolina
Rules of Civil Procedure; reading and signing of the deposition
by the witness are hereby waived.

EXHIBITS:

There were no exhibits to this deposition.

INDEX OF EXAMINATION

By Mr. Harter. Page 4
By Mr. Hawkins Page 46
By Mr. Harter. Page 54
By Mr. Hawkins Page 58

Tony Young v. Greenwood County Detention Center, et al.

Deborah Knowles
February 13, 2015

Page 4

DEBORAH KNOWLES, having first been duly sworn to
tell the truth, testified as follows:

EXAMINATION

By. Harter:

Q: Ms. Deborah Knowles, is that your name,
please?

A: Yes, sir.

Q: Your full name, please?

A: Deborah Lynn Knowles.

Q: Okay. And your home address, Ms. Knowles?

A: [REDACTED] Ware Shoals, South
Carolina 29690. I think is the zip code.

Q: Okay. That's good enough. What is your age,
please, ma'am?

A: 41.

Q: Okay. And tell me about your educational
background, Mrs. Knowles.

A: I got stuck in the ninth grade for three
years, quit, got married.

Q: Did you attend the ninth grade through the
ninth grade?

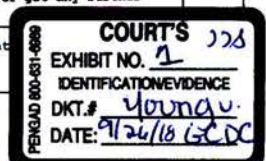
A: Three years in a row.

Q: Okay.

A: But I never went to the tenth or any further.

Q: I understand. Did you ever get any further

Tony Young v. Greenwood County Detention Center, et al.



1010
1028

1 education beyond that?
2 A: Uh-uh (negative response).
3 Q: Do you work, ma'am?
4 A: No, I'm disabled.
5 Q: Okay. What is your disability?
6 A: Agoraphobia.
7 Q: I'm sorry, I couldn't hear.
8 A: Agoraphobia, panic attack, and now it's liver
9 failure.
10 Q: I saw that. What kind of liver problem do you
11 have?
12 A: Basically, my weight. They believe my weight
13 and being a diabetic may have done some damage to my
14 liver. I have been living with it for approximately
15 eight years. I underwent having a stint put in my liver
16 to hold it open because I was retaining fluid.
17 Q: Okay.
18 MR. HARTER: Excuse me. We're in the middle
19 of a deposition here.
20 TONY YOUNG, JR.: I know. You said you were
21 supposed to be doing the subpoenas at the right time.
22 Mine is right now.
23 MR. HAWKINS: For the record, this is Tony
24 Young, Jr., has just come in the room and he has shown
25 defense counsel he's subpoena that indicates the time of

Tony Young v. Greenwood County Detention Center, et al.

1 the deposition is now.
2 MR. HARTER: No, it's 10:30. Your deposition
3 was at 10:30, sir.
4 TONY YOUNG, JR.: Yeah, and it's 10:30.
5 MR. HARTER: Okay. Well, we were delayed.
6 Okay. This lady's deposition was set at 9:30 and we
7 were delayed because we had a court matter because of an
8 issues. Now, here's your subpoena, sir, and I'll call
9 you when I'm ready for you, okay.
10 MR. HAWKINS: For the record, the witness is
11 correct, his subpoena is for 10:30 and it's almost 10:30
12 now.
13 MR. HARTER: That's correct. That is correct.
14 So you can step out and I'll call you.
15 Examination Resumed by Mr. Harter:
16 Q: You said you had a problem with your liver
17 because of what? I'm sorry, I got distracted there.
18 A: Being overweight. I'm also a diabetic and
19 it's just, it's all snowballing at one time.
20 Q: A combination of problems?
21 A: Yeah.
22 Q: Now, are you taking any medication now?
23 A: Yes.
24 Q: What medications do you take now?
25 A: I have it in my purse what I take for my

Tony Young v. Greenwood County Detention Center, et al.

1 liver.
2 Q: Okay.
3 A: It's pronounced Xifaxan.
4 Q: Okay, Xifaxan?
5 A: Yeah. It's like an antibiotic and it's for,
6 it has to do with the brain, fluid on the brain if I
7 don't take it twice a day.
8 Q: Okay.
9 A: I can get into a dangerous situation.
10 Q: I understand. What other medicine do you
11 take?
12 A: I take Effexor. Basically, it's been the
13 menopause. I take insulin for diabetes. Let's see, I
14 take Lyrica for diabetic nerve pain of the feet.
15 Q: Right.
16 A: If I have to, I take a very, a half a
17 milligram of Ativan, panic attacks, like I said, if I
18 need to.
19 Q: Now, do any of those medications affect your
20 ability to hear me and to understand my questions and to
21 give truthful answers today?
22 A: No.
23 Q: Ma'am?
24 A: I might ask you, like if you use a big word, I
25 might ask you to break it down.

Tony Young v. Greenwood County Detention Center, et al.

1 Q: Fair enough. And I might ask you to speak up
2 for me because sometimes I don't hear so good. But
3 we're here today to get information from you about this
4 case and what you know.
5 A: Uh-huh (affirmative response).
6 Q: And I need to cover a basic rules with you
7 first. And I'm going to be asking questions and you're
8 under oath and you understand that you're required to
9 answer those questions truthfully and we need to ask you
10 to give a verbal response. This lady is taking down
11 everything we say. She can't take down everything,
12 necessarily, that we do.
13 A: Okay.
14 Q: So we need to communicate verbally, okay. And
15 if there's anything about my question that you don't
16 understand, ask me to repeat it or rephrase it before
17 you try to answer it, okay? Okay?
18 A: Yes, sir.
19 Q: Alright. And if I accidentally interrupt you
20 and/or cut you off in the midst of an answer, please let
21 me know and we'll allow you to complete that answer.
22 Okay?
23 A: Yes, sir.
24 Q: Alright. Now, are you married, Ms. Knowles?
25 A: Yes.

Tony Young v. Greenwood County Detention Center, et al.

1 Q: What is your husband's name?
2 A: Earl Richard Knowles.
3 Q: Earl Richard Knowles?
4 A: Now, we have been separated for four years. I
5 don't know where he's at.
6 Q: Okay. And what is your relation to Tony
7 Young?
8 A: He was my first husband. We have the three
9 children together.
10 Q: So your children are ...
11 A: Tony's children.
12 Q: ... Samantha ...
13 A: And Tony, Jr
14 Q: And Tony ...
15 A: And Jessica Shirley.
16 Q: ... and Jessica. Okay. Now, did I understand
17 that Tony works, Tony, Jr.?
18 A: I call him Trey.
19 Q: Trey, okay. We'll call him Trey. Does Trey
20 work?
21 A: Yes.
22 Q: How about Samantha?
23 A: She's a stay at home mom, but she has
24 children. Well, my oldest, she drives to school and
25 picks him back up.

Tony Young v. Greenwood County Detention Center, et al.

1 Q: Okay.
2 A: My son-in-law works second shift.
3 Q: Okay. Jessica ...
4 A: She's a stay at home mother but she also has
5 my oldest grandson. She takes him to school and picks
6 him up.
7 Q: Okay.
8 A: And my son-in-law, her husband, he works the
9 second shift.
10 Q: Now, where do you live now?
11 A: With Samantha.
12 Q: You live with Samantha.
13 A: Yeah.
14 Q: And how long have you lived with Samantha?
15 A: Ever since this whole situation happened, the
16 wreck, and everything.
17 Q: Okay. Were you living with her at the time
18 that Mr. Young had his accident?
19 A: They lived in this trailer, and me and my
20 mother lived in this trailer, and me and my son had to
21 walk pretty much close to a mile up the road to where
22 the accident happened because my daughter that I live
23 with was at the stop sign before the wreck. We lived on
24 down the road and she didn't know that it was her daddy
25 involved. And me and my son, we walked up there.

Tony Young v. Greenwood County Detention Center, et al.

1 Q: Okay. I maybe don't need all that detail, but
2 were you living with Samantha in August of 2011 when ...
3 A: I did not live in her house, beside her.
4 Q: You lived beside her. Okay.
5 A: Yes.
6 Q: Now, do you drive?
7 A: No. I have the neuropathy of the feet, I ...
8 Q: Did Tony Young ...
9 MR. HAWKINS: Objection. Please let the
10 witness finish.
11 Q: ... your ex-husband drive?
12 A: I didn't get to finish.
13 Q: Okay. Did Tony Young, your ex-husband drive?
14 MR. HAWKINS: Objection. It's appropriate to
15 let the witness finish her statement.
16 A: I choose not to drive because of the nerve
17 pain. That's the only reason. You can't understand
18 that, unless I'm sure you've seen the commercials on TV.
19 I don't trust my feet getting behind the wheel.
20 Q: Okay. My question is does Tony Young drive?
21 A: No.
22 Q: Okay. Was he driving back in August of 2011
23 when he was involved in this accident?
24 A: Yes, sir, he was. He had taken me to the
25 doctor that morning.

Tony Young v. Greenwood County Detention Center, et al.

1 Q: Okay. Do you know why he was driving --- Was
2 he driving Samantha's vehicle?
3 A: Yes.
4 Q: Okay. Did he drive that vehicle often?
5 A: No.
6 Q: How often did he drive it?
7 A: Just every once in a blue moon. It wasn't a
8 lot.
9 Q: Had you ridden with him in that vehicle
10 before?
11 A: That morning, like I said, he took me to the
12 doctor and he went to work.
13 Q: Before that morning, had you ridden with him
14 in that vehicle?
15 A: No, sir.
16 Q: Before that morning, had you ridden in a
17 vehicle with him?
18 A: I'm pretty sure. I wasn't, you know, we have
19 always been involved.
20 Q: Right. You've always been involved?
21 A: With our children.
22 MR. HAWKINS: Objection.
23 Q: Now, when did he lose his license, do you
24 know? Or did he?
25 A: That was probably back when we were teenagers

Tony Young v. Greenwood County Detention Center, et al.

1 and dating.
2 Q: Did he have a driver's license when y'all were
3 married?
4 A: I don't think so. To my knowledge, no.
5 Q: Okay. And when were y'all married?
6 A: May 6 of '88.
7 Q: '88?
8 A: Yeah.
9 Q: How long were you married?
10 A: Eight and a half years.
11 Q: So you were divorced about when?
12 A: We divorced in '96.
13 Q: '96. What were the grounds for the divorce?
14 MR. HAWKINS: Objection, relevance.
15 A: Yeah.
16 Q: What were the grounds for the divorce?
17 A: Does it really ...
18 Q: Yeah, what were the grounds for the divorce?
19 MR. HAWKINS: Objection, relevance.
20 MR. HARTER: Are you telling her not to
21 answer?
22 MR. HAWKINS: Did I say don't answer?
23 Q: Okay. Well, then answer.
24 MR. HAWKINS: Did I say not answer, Rusty. I
25 said, objection, relevance. She can answer if she

Tony Young v. Greenwood County Detention Center, et al.

1 wants.
2 MR. HARTER: No. Are you suggesting that she
3 has a choice to answer this?
4 MR. HAWKINS: I'm not suggesting, I object on
5 relevance.
6 MR. HARTER: Okay.
7 MR. HAWKINS: Because the rule says I need to
8 state the reason for my objection. If I'm wrong about
9 that, I'll be glad to ...
10 MR. HARTER: No, you're wrong again. You're
11 wrong again about that.
12 Q: Ms. Knowles, tell me the grounds for your
13 divorce from Tony Young.
14 MR. HAWKINS: Objection, relevance.
15 Q: Answer.
16 A: I really don't see where it matters.
17 Q: I understand, but answer.
18 A: Okay, we had an amicable split. I got off
19 work early, picked him up from his job. Went and came
20 up to Anderson. Went before the judge, we both went
21 back to work.
22 Q: Okay. But what were the grounds? There were
23 legal grounds for the divorce ...
24 MR. HAWKINS: Same objection.
25 Q: ... was it adultery, was it physical cruelty

Tony Young v. Greenwood County Detention Center, et al.

1 ...
2 A: No. No.
3 Q: ... was it alcohol or drug abuse? What was
4 it?
5 A: He drank but, I mean, he didn't do drugs.
6 Q: But did you make allegations in a lawsuit or
7 in a ...
8 A: We, basically ...
9 Q: Wait a minute and let me finish the question
10 now.
11 MR. HAWKINS: Objection.
12 A: I'm trying to answer.
13 Q: Let me finish the question. Did you make
14 allegations against him in a divorce action?
15 MR. HAWKINS: Object to the form.
16 Q: Did you?
17 MR. HAWKINS: Objection.
18 Q: Did you make allegations against him in a
19 divorce action?
20 A: It was a basic --- No, I did not. It was
21 just I paid for the divorce and \$75 to get my maiden
22 name back. It was just amicable.
23 Q: Okay. But usually people have grounds for
24 divorce when they do it. Did you make allegations of
25 your grounds for divorce against Mr. Young?

Tony Young v. Greenwood County Detention Center, et al.

1 A: He had a few beers on the weekends and I just,
2 I was very stern. I didn't, I didn't agree with it.
3 Q: Did you ...
4 A: I can't remember if it was, if I had, we have
5 been divorced since I was 25.
6 Q: Okay. Your divorce action was filed in
7 Anderson County?
8 A: My lawyer was from Anderson ...
9 MR. HAWKINS: Object to the form.
10 A: ... We went to the Anderson Court House, if
11 you would like to look it up.
12 Q: Okay. Who was your lawyer?
13 A: I don't even remember her name.
14 Q: Okay.
15 A: It's just been so long, I don't remember her
16 name.
17 Q: Now, have you ever been arrested for anything,
18 Ms. Knowles?
19 A: No, I have not.
20 Q: Do you drink alcohol?
21 A: No, I do not.
22 Q: When is the last time that you saw your ex-
23 husband, Tony Young?
24 A: When I've seen him drink?
25 Q: No, no. The last time you saw him?

Tony Young v. Greenwood County Detention Center, et al.

1 A: The last time I saw him was in the hospital
2 before Greenwood County come up there and jerked him
3 out of the hospital when he shouldn't have even left
4 there.
5 Q: Okay. That was at the hospital where?
6 A: Here in Greenville.
7 Q: Okay. Now, tell me, that would have been in
8 August of 2011?
9 MR. HAWKINS: Objection, leading.
10 Q: Is that right?
11 A: If that's the date they come and picked him up
12 in Greenville Hospital?
13 Q: Do you know when his car wreck was?
14 A: The car wreck was on the 10th, the 9th or the
15 10th.
16 Q: Okay. My question is, was that in August of
17 2011 that you went to the hospital and saw him?
18 A: I didn't get to see him for a couple of days.
19 He was in a medically induced coma.
20 Q: I understand.
21 A: Because of so many breaks.
22 Q: In August of the year 2011, is that right?
23 A: I came up to spend the night with him. I
24 can't tell you the date it was. It wasn't the next day
25 after the wreck.

Tony Young v. Greenwood County Detention Center, et al.

1 Q: Was it in August?
2 A: It was in August, but I wouldn't think it was
3 the next day or two.
4 Q: My question is, was it in August of the year
5 2011? I'm not asking the day, I'm asking the year and
6 the month.
7 A: Yes.
8 Q: Okay. Do we agree it was August of 2011 ...
9 MR. HAWKINS: Object to the form. You need to
10 let the witness finish testifying.
11 Q: Was it in August of 2011?
12 A: Yes.
13 Q: Okay. Now, how many days were you there with
14 him in the hospital in August of 2011?
15 A: I stayed over one night with him.
16 Q: One night?
17 A: Yeah. Because his children, you know, it's
18 hard for me to sit back. I had to let his children,
19 because they're grown, come up to the hospital and be
20 with him because he was in such serious shape.
21 Q: Right. I'm going to talk to his children I
22 hope to today. But how many days or nights did you
23 spend at the hospital?
24 A: One.
25 Q: One night?

Tony Young v. Greenwood County Detention Center, et al.

1 A: One night.
2 Q: Okay. Now, I believe he was in the hospital
3 from about August the 9th or 10th until about August the
4 16th. Do you know what days he was there or how many
5 days he was there?
6 A: He had the wreck on August 10.
7 Q: Okay. Alright. Now, were you there right
8 after he had the wreck or were you there when he was
9 taken ...
10 A: He had a ...
11 Q: Let me finish now. Were you there right after
12 the wreck or were you there when he was taken from the
13 hospital?
14 A: No, I was in Greenwood with my daughter when
15 she was being bullied by the cops.
16 Q: Okay. My question is, were you with, were you
17 at Greenville Memorial ...
18 A: No, I was ...
19 Q: Wait a minute. Let me finish now.
20 MR. HAWKINS: You didn't let her finish her
21 answer.
22 Q: No, no. Were you at Greenville Memorial
23 Hospital when Mr. Young was taken from the hospital to
24 the Detention Center in Greenwood?
25 A: No, I was not.

Tony Young v. Greenwood County Detention Center, et al.

1 Q: Okay. Now, did you talk to any of his
2 physicians when you were at the hospital?
3 A: He was, basically, you know, just I didn't see
4 any of the doctors. The children had talked to his
5 doctors. I just, I seen him in a way that I really
6 didn't want to see him.
7 Q: I understand. Did you talk to any of his
8 doctors while you were at GHS?
9 A: No, I did not. No, I didn't not.
10 Q: Do you know the names of any of his doctors at
11 GHS?
12 A: No. No.
13 Q: Were you at GHS or Greenville Hospital when he
14 was taken from the hospital to Greenwood?
15 A: No.
16 Q: Were you at GHS Hospital when he was
17 discharged?
18 A: No. His son was there.
19 Q: I understand. Okay. Now, did you ever see
20 him while he was at the Greenwood County Detention
21 Center?
22 A: Yes, I did, when he had his first hearing.
23 Q: Okay. Did you see him any other time while he
24 was at the Greenwood County Detention Center?
25 A: His daughter went and seen him. No, I did

Tony Young v. Greenwood County Detention Center, et al.

1 not
2 Q: Okay. And I appreciate that information. But
3 did you see him any other time other than at his first
4 hearing ...
5 A: No.
6 Q: ... while he was at the Greenwood County
7 Detention Center?
8 A: Just that one time at his hearing, that was
9 it.
10 Q: Was that a bond hearing?
11 A: I think it was.
12 Q: Where was it, ma'am?
13 A: It was in a magistrate's, it was one of them
14 big rooms in the Greenwood Detention.
15 Q: Who else was there?
16 A: It was me; my daughter, Samantha; her mother-
17 in-law, Dory. I don't know her last name.
18 Q: Dory?
19 A: Dory. It's her mother-in-law. Because she
20 knew the Sheriff. I can't remember his name, Tony or
21 something.
22 Q: And who else was there?
23 A: The guy that was injured on the tractor, his
24 brother, and the people that he worked for on that road.
25 Q: Okay. Who was the guy that was injured on the

Tony Young v. Greenwood County Detention Center, et al.

1 tractor?
2 A: All I know is his name was Flip.
3 Q: Flip?
4 A: And he was big.
5 Q: Was Flip there at that bond hearing?
6 A: No, he was in the hospital. He was in very
7 bad shape.
8 Q: Okay. Who else was at the bond hearing that
9 you remember?
10 A: Me and my daughter and her mother-in-law.
11 Tony was there, the cops that needed to be there, Flip's
12 brother.
13 Q: Flip's brothers?
14 A: Brother.
15 Q: Brother.
16 A: And his mama.
17 Q: Do you know their names, ma'am, his brother
18 and his mother.
19 A: I don't know their last names.
20 Q: Okay. How long did the bond hearing last, if
21 you know?
22 A: I'm going to say probably about 5 or 10
23 minutes. It was over before I even knew what was going
24 on.
25 Q: Did your ex-husband, Tony, have a lawyer

Tony Young v. Greenwood County Detention Center, et al.

1 representing him at the bond hearing?
2 A: No. He was supposed to have had a, what do
3 you call them?
4 Q: Public defender?
5 A: Yes, but it wasn't nobody there.
6 Q: Nobody showed up. Okay. Tell me what you
7 remember about the bond hearing, what was said.
8 A: The magistrate said what he said. The family
9 spoke up and said, they made like Tony was some big, you
10 know, monster or whatever, like they felt safer if he
11 was kept in jail. Tony's not that kind of person.
12 Q: I understand. That was Flip's family that was
13 speaking up?
14 A: Yeah. And they weren't letting Tony's family
15 have any kind of say.
16 Q: Who wasn't, the magistrate?
17 A: Yeah.
18 Q: Who was the magistrate, if you remember?
19 A: He's a cop down there. What's his name?
20 Q: He's what?
21 A: It's Tony or Tommy. Samantha's mother-in-law
22 knows him by name.
23 Q: Fair enough. Now, tell me, the bond hearing
24 you said lasted five to ten minutes.
25 A: Uh-huh (affirmative response).

Tony Young v. Greenwood County Detention Center, et al.

1 Q: Is that a yes?
2 A: Yes.
3 Q: And you said Flip's family spoke out.
4 A: Yeah.
5 Q: And they made him out to be a monster.
6 A: Yes.
7 Q: And did y'all say anything to the magistrate
8 at that time, you or Tony or any of the family members?
9 A: We weren't give a chance. I might have popped
10 off with something, but I didn't get in trouble.
11 Q: Okay. Do you remember Tony saying anything at
12 that time?
13 A: No.
14 Q: Nothing?
15 A: He was in too much pain. He barely could
16 function.
17 Q: I understand. But my question is, do you
18 remember anything that he said at the bond hearing to
19 the magistrate?
20 A: He didn't say, he couldn't say nothing. He
21 didn't.
22 Q: He didn't say anything. Okay. Alright. Now,
23 following the bond hearing, I want to ask you, did you
24 see him at any time while he was at the Detention
25 Center?

Tony Young v. Greenwood County Detention Center, et al.

1 A: No, I left. My daughter would go and see him.
2 Q: Alright. And now, he got sentenced, I
3 understand, to SCDC in April of 2012.
4 MR. HANKINS: Objection.
5 Q: Do you know that he got sentenced to SCDC?
6 A: I know he was sentenced to ...
7 Q: Let me ask you this. Did you go to court when
8 he was sentenced?
9 A: No.
10 Q: Okay. Have you seen him or visited him since
11 he was incarcerated in prison at SCDC?
12 A: We went down for his parole hearing here
13 recently.
14 Q: Okay.
15 A: That's the only time I've seen him.
16 Q: That's the only time you've seen him.
17 A: I don't talk with him on the phone.
18 Q: When was that parole hearing, if you know?
19 A: It just happened like a month or so ago.
20 Because he'd been in jail for like three years, since
21 the wreck.
22 Q: Right. And y'all's marriage was, y'all got
23 married in '88. Is that right?
24 A: Uh-huh (affirmative response).
25 Q: And you divorced in '96?

Tony Young v. Greenwood County Detention Center, et al.

1 A: Uh-huh (affirmative response).
2 Q: Is that right?
3 A: Yeah.
4 Q: Okay. Now, do you know anything about when he
5 was in prison at any other time other than now?
6 A: He'd never, he did like 50 something days for
7 violating probation at the Abbeville Farm. And then
8 when I had moved to here in Greenville with my husband,
9 he was at another place. I don't where, why, what was
10 going on. That's when my other marriage ...
11 Q: All I want to know is did you know that Mr.
12 Young, Tony Young, was in prison some other time other
13 than when he's there now.
14 A: Like I just said, he was at that --- I don't
15 know if it, I know he done that Farm, 50 days for
16 violating probation. And that's just, to me it's not
17 prison. I've never known him to be in prison.
18 Q: Okay. You've never known him to be in prison.
19 Okay. Alright. Now, did you say at the time back in
20 August of 2011 on the day of the accident, Tony Young
21 had taken you to the doctor?
22 A: Uh-huh (affirmative response), that morning.
23 Q: Okay. Was he drinking at that time?
24 A: No.
25 Q: Okay. Now, did you say he went to work?

Tony Young v. Greenwood County Detention Center, et al.

1 A: Yeah.
2 Q: And did he take you to the doctor and then
3 drive and go to work?
4 A: Uh-huh (affirmative response).
5 Q: Is that a yes?
6 A: Yes, sir.
7 Q: Okay. And where did he work?
8 A: He was painting. I can't even tell you the
9 man's name that he was painting for.
10 Q: Okay. Did he drive himself to work usually?
11 A: No.
12 Q: How did he usually get to work?
13 A: The man would come pick him up or my daughter
14 would take him.
15 Q: And Samantha would take him?
16 A: Right.
17 Q: Now, the place where y'all lived, you said,
18 now Samantha and her husband lived there?
19 A: Yes.
20 Q: Do they live in a home, a house, a trailer?
21 A: Where we live now?
22 Q: No, no, at the time back in 2011?
23 A: At the time they lived in a trailer on what's
24 the name of that road we lived on.
25 Q: Do they own that trailer or rent it?

Tony Young v. Greenwood County Detention Center, et al.

1 A: No, they rented it from the same people.
2 Q: Samantha and her husband were renting a
3 trailer, right?
4 A: Uh-huh (affirmative response).
5 Q: And then you lived where?
6 A: Right beside them.
7 Q: And you lived with ...
8 A: My mother.
9 Q: ... your mother. Did your mother, did she
10 rent or own?
11 A: She was renting and we lived together.
12 Q: Okay. Who else lived in that same area?
13 A: Lived on the other side, the man that was
14 injured on the tractor.
15 Q: Alright. Okay. Now, here's my question.
16 What did Tony Young look like at the bond hearing?
17 A: Horrible.
18 Q: Okay. Tell me how he looked.
19 A: Well, considering what the car looked like, he
20 looked a whole lot better. He had this massive bump on
21 his arm where he had ate some road because he hit the
22 tractor, went through the windshield. The only time
23 I've never known him not to put his seat belt on. Thank
24 God he didn't put it on because he went through the
25 windshield of the car. But he just, you could look in

Tony Young v. Greenwood County Detention Center, et al.

1 his eyes, as I could anyway, and see how much pain he
2 was in.
3 Q: Okay.
4 A: He had burns all over him, but I remember that
5 one being really bad.
6 Q: On his left arm?
7 A: And I remember calling the Greenwood Police
8 Department and talking to the nurse and, you know,
9 telling them they needed to check up on him and do
10 something.
11 Q: Who did you talk to?
12 A: Some lady working. I didn't get no names.
13 Q: She said she was a nurse?
14 A: Yes.
15 Q: When was it that you made that call?
16 A: Right after the hearing when I seen the burns
17 and the pain he was in and how they was making him the
18 walker with the extended brace that the doctor made for
19 him. They were making him go up the steps, back down,
20 carrying. He had a broke neck, a broke pelvis, a broke
21 wrist, cuts, burns. He was just ...
22 Q: Okay. So this is at the bond hearing.
23 MR. HAWKINS: Objection. She should be given
24 a chance to answer.
25 Q: This is at the bond hearing?

Tony Young v. Greenwood County Detention Center, et al.

1 A: Like I said, it's a wonder he was still alive.
2 Q: I understand. Now, this was at bond hearing?
3 A: Yeah.
4 Q: Did he have a walker with him?
5 A: Yeah. And like I said, it had an extended
6 thing for his wrist because he had broke his wrist, but
7 he didn't have it in a cast.
8 Q: Okay.
9 A: And they were making him, wasn't even helping
10 him; they were making him walk up all the steps and back
11 down.
12 Q: Did he have any brace on his hands?
13 A: They did not cast it.
14 Q: No, did ...
15 A: They didn't do anything, no. They had like a
16 extra extension for the walker to where he was having
17 so, you know, hold.
18 Q: So he was in a walker? He had a walker?
19 A: You know, the walker. Some have wheels.
20 Q: Right. Did he have anything on his hands or
21 arms?
22 A: No.
23 Q: What did you mean by an extension?
24 A: About that tall, had a little thing where
25 could rest his arm. The doctor kind of, you know, made

Tony Young v. Greenwood County Detention Center, et al.

1 what Tony could use.
2 Q: So there was something on his wrist to hold
3 it?
4 A: It was attached.
5 Q: To the walker.
6 A: Yeah.
7 Q: Okay. And did he have anything on his legs or
8 his knees or his neck or anything like that?
9 A: Well, he was burnt. I mean, he was cut and
10 burn places all over him.
11 Q: Were they exposed or were they wrapped up?
12 A: This one was exposed. It was not wrapped up,
13 it was just oozing pus.
14 Q: Okay.
15 A: About this long.
16 Q: About six inches long?
17 A: Uh-huh (affirmative response). It was on this
18 arm right here.
19 Q: You think it was on his right arm?
20 A: Uh-huh (affirmative response).
21 Q: Ma'am?
22 A: Yes, sir.
23 Q: Which arm did he have that contraption on to
24 hold it or brace it?
25 A: Right.

Tony Young v. Greenwood County Detention Center, et al.

1 Q: His right?
2 A: Uh-huh (affirmative response).
3 Q: Ma'am?
4 A: Yes, sir.
5 Q: The hand that he writes with?
6 A: Yes.
7 Q: And he's right-handed?
8 A: Yes.
9 Q: Did he have any kind of brace on his neck or
10 head or anything?
11 A: He left the hospital with a collar on. They
12 got him back to Greenwood, and you can get this yourself
13 from the Jailbird, from that year. His mug shot was
14 taken with his collar on.
15 Q: Right.
16 A: The doctor said not to take it off.
17 Q: But did he have the collar on when you saw him
18 at the bond hearing?
19 A: Yeah.
20 Q: Ma'am?
21 A: As far as my knowledge, he had it on.
22 Q: At the bond?
23 A: The bond, yeah.
24 Q: Okay, great.
25 A: But the mug shot was took before that?

Tony Young v. Greenwood County Detention Center, et al.

1 Q: Right. The mug shot was taken and it wasn't
2 on, but at the bond hearing it was on.
3 A: Yeah.
4 Q: And you're talking about a neck collar, neck
5 brace?
6 A: Uh-huh (affirmative response).
7 Q: Ma'am?
8 A: Yes, sir.
9 Q: Okay, good. Now, how long was that after he
10 got out of the hospital that that bond hearing was done?
11 A: It was a matter of days.
12 Q: And you never saw him again at the Detention
13 Center?
14 A: No, I did not. I let his children visit him.
15 Q: I understand. We're going to talk to his
16 children. Now, did you talk to him at the Detention
17 Center? I mean, did he phone you?
18 A: No.
19 Q: Or write you or anything?
20 A: No, I just talked with him and hugged him at
21 the bond hearing.
22 Q: But after the bond hearing and before he was
23 sentenced, you never saw ...
24 MR. HAWKINS: Object to the form.
25 Q: ... or had any communications with him at the

Tony Young v. Greenwood County Detention Center, et al.

1 Detention Center. Is that correct?
2 A: Could you repeat that?
3 Q: Yes. After the bond hearing and before he was
4 sentenced, you never had any communications or
5 conversations with Mr. Young while he was at the
6 Detention Center.
7 MR. HAWKINS: Object to the form.
8 Q: You can answer.
9 A: Like I said, and I hate to keep repeating
10 myself. I let his children go and see him. You know,
11 he was writing Samantha letters but ...
12 Q: I'm talking about you.
13 A: No.
14 Q: I'm not talking about Samantha, I'm not
15 talking anybody else, I'm talking about you.
16 A: No. But I keep telling you the same thing.
17 Q: I know. You keep telling be about ...
18 A: I'm going to keep ...
19 Q: ... children but I'm not asking about the
20 children, I'm asking about you.
21 A: I couldn't do anything.
22 Q: Fair enough. Okay. What did that brace look
23 like when you saw it on him at the bond hearing?
24 A: The neck collar?
25 Q: Yes.

Tony Young v. Greenwood County Detention Center, et al.

1 A: It's like what they put on them. I guess they
2 put it on him the night of the wreck or the day of the
3 wreck when he was air lifted to Greenville. It was a
4 safe collar or something. I don't know what you call
5 them. It's just like a beige tan color.
6 Q: But it was around his neck.
7 A: Yeah. They're very irritable. He didn't like
8 it, but he was told to wear it.
9 Q: Alright. I'm sorry, do what?
10 A: I'm asking him a question.
11 Q: No, we don't. If you've got any questions, we
12 need to talk about it to me.
13 MR. HAWKINS: I think she was indicating that
14 she needs a break and if she does, she can take one.
15 Q: Is that what you need?
16 A: Yes, sir.
17 Q: Okay, sure. We're going to take a break and I
18 do need to tell you that you should not discuss your
19 testimony with anybody while we're on a break. Do you
20 understand?
21 A: I'll be standing right outside the door.
22 Q: I trust you. I just need to tell you that
23 because you probably don't do this everyday.
24 A: No, I don't.
25 Q: And I want to make sure you understand that.

Tony Young v. Greenwood County Detention Center, et al.

1 (Off the Record)
2 Examination Resumed by Mr. Harter:
3 Q: Ms. Knowles, did you talk to anybody today,
4 excuse me. Have you talked to anybody about this case
5 before today?
6 A: Me and my kids, we don't talk about it
7 everyday but, you know, we want to see him come back
8 home.
9 Q: I understand. Have you talked to Mr. Hawkins
10 or his law firm or anybody about the case or the
11 information we're talking about today?
12 A: No. I was told to be here, but we did not
13 discuss anything over the phone.
14 Q: You've never talked to Mr. Hawkins at all
15 about this case?
16 MR. HAWKINS: Object to the form.
17 Q: Ma'am?
18 A: I mean, we had a brief discussion this
19 morning, but not really.
20 Q: Well, tell me about that discussion this
21 morning that you had.
22 A: It was just the way the hearing was going to
23 go down.
24 Q: Well, tell me everything you can remember
25 about that discussion this morning.

Tony Young v. Greenwood County Detention Center, et al.

1 A: I was told I could answer questions.
2 Q: You could what?
3 A: Answer a question. I don't have a problem
4 with answering. I hate to keep repeating myself, but I
5 don't mind answering any question you've got.
6 Q: Okay, I understand. What else were you told
7 this morning?
8 A: That was, basically, about it. I mean, I'm
9 not his client, Tony is.
10 Q: I understand that.
11 A: I'm just here, you know, to answer questions
12 about how he was treated.
13 Q: What else do you remember about any
14 conversations you've had with Mr. Hawkins or anybody
15 else about this case?
16 A: Nobody.
17 Q: You had no conversations this morning except
18 that you were told you should answer questions?
19 A: He went over and how this goes because I had
20 never been to one of these and he just, basically,
21 briefed us on how it would go.
22 Q: Okay, well tell me ...
23 A: Nothing ...
24 Q: Tell me what you remember him briefing you
25 about, what he said.

Tony Young v. Greenwood County Detention Center, et al.

1 A: Like I just said, you know, answer questions
2 or I don't have to or, I mean, it's just common sense.
3 Q: I understand. But I want to make sure we're
4 getting a handle on what he told you this morning.
5 A: We did not discuss ...
6 MR. HAWKINS: I'm going to put an objection on
7 the record that the same question has been asked four
8 times and she's answered it four times.
9 Q: Okay. Well, I'm not sure we have that answer,
10 it has been answered.
11 MR. HAWKINS: Four times.
12 Q: And don't interrupt me, Mr. Hawkins, please.
13 MR. HAWKINS: Four times.
14 Q: Now, will you tell me what conversations you
15 had this morning with Mr. Hawkins about this case.
16 A: Okay. Again, he just briefed me and the
17 children, not anything to do with the case just,
18 basically, how it would happen by a stenographer. I
19 think that's what you're called. But he said you might
20 have one of these little things. I've seen that done
21 before. And that's it.
22 Q: So he just told you you were going to answer
23 questions and that's it?
24 A: The only thing I can do is answer a question
25 to the best of my knowledge.

Tony Young v. Greenwood County Detention Center, et al.

1 Q: But that's all he told you is that you're
2 going to answer questions? Is that all you understood?
3 MR. HAWKINS: Object to the form and object to
4 asking several times.
5 A: The only thing I can do. You ask me a
6 question, I will answer it.
7 Q: No. I want you to tell me ...
8 A: Can I finish. I will answer to the best of my
9 knowledge. That's all I can do.
10 Q: Alright. Here's the question, so we get it
11 straight and so we hopefully don't have to call anybody
12 else today.
13 MR. HAWKINS: Let's hope not.
14 Q: I want to make sure you tell me everything you
15 remember about your conversations with Mr. Hawkins
16 today.
17 A: He briefed us.
18 Q: On?
19 A: How this was going to go, plain and simple.
20 Q: You say he briefed you. What did he say when
21 he briefed you.
22 A: About the deposition. We have never been to
23 one. He briefed us on --- Ask him.
24 Q: I can't ask him.
25 A: That's all I can tell you. He just told us

Tony Young v. Greenwood County Detention Center, et al.

1 how, basically, you know, how it was going to go.
2 Q: Did y'all discuss anything about whether or
3 not Mr. Young had a collar on while he was in the
4 Detention Center?
5 A: Like I said, go back to Jailbirds. His mug
6 shot was taken without the collar on, plain and simple.
7 Q: The question is this morning before this
8 deposition, did you have discussions with Mr. Hawkins as
9 to whether or not Mr. Young had a collar on when he was
10 at the Greenwood County Detention Center?
11 MR. HAWKINS: Objection, asked and answered.
12 A: How many times do I have to say it?
13 Q: You just need to answer that question, ma'am.
14 A: With the collar, I mean, my thinking goes ...
15 Q: No. So you understand the question ...
16 MR. HAWKINS: She should be given a chance to
17 answer the question.
18 Q: Do you understand the question?
19 A: Maybe repeat it. I'm not sure.
20 Q: The question is, this morning when you talked
21 with Mr. Hawkins, did you discuss with him ...
22 A: I might have ...
23 Q: Let me finish now. This morning when you
24 talked with Mr. Hawkins, did you discuss with him or did
25 he discuss with you anything about Mr. Young having a

Tony Young v. Greenwood County Detention Center, et al.

1 collar on or off at the Greenwood County Detention
2 Center?
3 A: No. Me and the kids may have talked about it
4 and my son, because my son has it in his phone. But I
5 said, well just, you know, let you do the leg work if
6 you want the picture. I mean, it's right there in his
7 mug shot, no collar. That's all I've got to say about
8 it. Next question.
9 Q: The next question is, do I understand
10 correctly that you had no discussions with Mr. Hawkins
11 this morning about whether or not Mr. Young had a collar
12 on at the Detention Center?
13 MR. HAWKINS: Objection. Asked and answered.
14 A: Yeah. I've answered you.
15 Q: Did you have that discussion or not?
16 A: Not with him, only just the kids.
17 Q: That's fine. Now, when did you have that
18 discussion with the kids?
19 A: I think my son might have said something about
20 it and I said, "Well, you've got it on ..." he's got it
21 on his phone. And I just said, you know, if you wanted
22 it. I mean, like I just told you, you can do the leg
23 work. His mug shot, there's no collar. How many more
24 times have I got to say this before I pled the Fifth.
25 Q: This morning, did you have discussions with

Tony Young v. Greenwood County Detention Center, et al.

1 your children or did your children ...
2 A: My children. Please, let's go to the next
3 question.
4 Q: Ma'am, this morning, did you have discussions
5 with your children and Mr. ...
6 A: No, with my kids, with my children.
7 Q: Okay. This morning, did you have discussions
8 with your children about whether or not Mr. Young had a
9 collar on while he was at the Greenwood County Detention
10 Center?
11 A: With my children, yes.
12 Q: Where was that conversation?
13 A: We were talking amongst ourselves down there.
14 Q: Was Mr. Hawkins in the room?
15 A: He may have walked out or something another.
16 I don't --- This is getting to be confusing.
17 MR. HAWKINS: Yeah, what are you looking for,
18 Rusty?
19 Q: I think it's pretty obvious what I'm looking
20 for is the truth. And I'm looking for some information.
21 A: I told you, Jailbirds, it's there.
22 Q: Hold it.
23 A: I don't have to say it again. I mean, that's
24 just too much. Go to another question. I have no
25 problems answering your question.

Tony Young v. Greenwood County Detention Center, et al.

1 Q: Ms. Knowles, this morning, did you have
2 discussions with your children or your kids about
3 whether or not Mr. Young had a collar on at the
4 Greenwood County Detention Center?
5 A: Did I have a conversation with my children?
6 Q: Yes.
7 A: Yes.
8 Q: Tell me about that conversation.
9 A: I can't tell you exactly word for word how it
10 went down. But we were, you know, discussing it, like I
11 told you. I mean, I told my son, "Don't worry about
12 pulling it up." You could get it quicker than he could
13 do what he has to do with the Internet on his phone
14 getting pictures.
15 Q: Okay. Is that the only discussion you had
16 with your son, with your children this morning about the
17 ...
18 A: Honestly, I really don't ...
19 Q: I'm sorry. Let me finish now. Let me finish.
20 Is that the only discussion you had this morning with
21 your children or your son or your daughters about
22 whether or not Mr. Young had a collar on at the
23 Greenwood County Detention Center?
24 A: I've already answered and told you, yes, we
25 have talked about this many times. I mean, actually,

Tony Young v. Greenwood County Detention Center, et al.

1 what goes on with me and my kids going on is pretty much
2 our privacy and I've answered your question I don't know
3 how many times.
4 Q: Well, to the extent ...
5 A: How many different ways do you want me to put
6 this.
7 Q: To the extent it relates to the testimony or
8 facts of this case, it may not be private, okay. Did
9 your children attend the bond hearing?
10 A: Samantha was there.
11 Q: Did you and Samantha discuss anything about
12 whether or not your ex-husband, Tony Young, had a collar
13 on at the bond hearing?
14 A: Not at the bond hearing, no.
15 Q: Did she see the same thing you did?
16 A: You know, just that one sore.
17 Q: She would have seen the collar, too, though if
18 she saw him, right?
19 A: She probably remembers ...
20 MR. HAWKINS: Object to the form.
21 A: ... more than I do. I don't know. I mean,
22 ask her the same question as you've asked me, ask her.
23 Q: I'm going to ask her.
24 A: I don't have a problem.
25 Q: Ma'am?

Tony Young v. Greenwood County Detention Center, et al.

1 A: I don't have a problem. Ask her, ask Trey.
2 Q: I'm going to. But, now, did your son, Trey,
3 say anything this morning about seeing your ex-husband
4 at the Detention Center without a collar on?
5 MR. HANKINS: Objection.
6 A: The way my son seen it was in the Jailbirds.
7 He took a picture on his phone.
8 Q: Okay. Now, did your son attend the bond
9 hearing?
10 A: No.
11 Q: Okay. To your knowledge, did your son or any
12 of your daughters visit Mr. Young at the Detention
13 Center while he was there?
14 A: Samantha.
15 Q: Okay. Did either Jessica or Tony visit while
16 he was there?
17 A: No.
18 Q: Now, what did Samantha tell you about visiting
19 her daddy at the Detention Center?
20 MR. HANKINS: Objection.
21 A: I really never, she just went and spent time
22 with him.
23 Q: How many times did she visit him?
24 A: Pretty much every week till he was sent
25 further and further, when he got sentenced or whatever

Tony Young v. Greenwood County Detention Center, et al.

1 you want to call it.
2 Q: Okay. Alright.
3 MR. HARTER: Ms. Knowles, I don't have any
4 further questions.
5 A: Thank God.
6 MR. HARTER: I'm sorry, let me finish now. I
7 don't have any further questions for you at this time,
8 okay. Thank you.
9 A: Thank you.
10 -----
11 EXAMINATION:
12 By: Mr. Hawkins:
13 Q: I'm going to ask you some now. I'll be real
14 quick. You said that Mr. Young drives Samantha's
15 vehicle from time to time.
16 A: Every once in a while. It wasn't an ongoing
17 thing.
18 Q: Okay. And did he ever steal that vehicle?
19 A: No, sir.
20 Q: And you said your daughter was bullied by the
21 cops. What did you mean by that?
22 A: Well, where he was being taken --- I'm not
23 going to say what I said, but the State Trooper that
24 came up here and got Tony and my son was up here, and
25 basically, he got left at the hospital because Samantha

Tony Young v. Greenwood County Detention Center, et al.

1 was going to pick him up. But he had called Samantha
2 and was threatening to get her for harboring a fugitive
3 and she was still at home in Greenwood when we lived on
4 that, I can't remember the name of that road.
5 Q: That's alright. He was threatening her with
6 harboring a fugitive?
7 A: Yeah. To have her arrested for harboring a
8 fugitive.
9 Q: Do you remember his name?
10 A: I don't remember his name, but if somebody
11 said it, I could, you know, pick it out and tell you,
12 you know, that sounds right.
13 Q: Do you remember if it was a State Trooper or a
14 ...
15 A: It was a State Trooper.
16 Q: It was. Did at any time did a Greenwood
17 County employee make any of those threats or
18 communications?
19 A: No.
20 Q: Okay.
21 A: It was a State Trooper. The one, like I said,
22 me and my son had to walk to the wreck because my
23 daughter was on the other end trying to get home. And
24 he was, actually, the State Trooper that seen all the
25 sheaves and stuff that was in the, I go running up and

Tony Young v. Greenwood County Detention Center, et al.

1 he shows me Tony's ID and he asked me if that was him
2 and I said yeah. And they already had him in the
3 helicopter to be air lifted.
4 Q: Alright. And how many days passed between
5 when the wreck happened and when he was taken to
6 Greenwood, if you remember?
7 A: I'd say about a week, maybe a couple or ---
8 It wasn't, I mean, it wasn't long. They just jerked him
9 up and put him in jail.
10 Q: And was he healed yet?
11 A: No, not at all.
12 Q: Did he still have visible injuries when they
13 picked him up?
14 A: Yeah.
15 Q: Was he still in a good deal of pain or did he
16 appear to be?
17 A: Yeah, yeah. They took his medicine and they
18 wouldn't give it to him. And I know it was narcotics
19 and, you know, I figured, you know, they wouldn't give
20 that but they do have like, like I said, I called the
21 nurse, you know, from time to time and asked her how he
22 was doing and if they were checking his, that one big
23 burn that was nasty looking. And he could have gotten
24 but they were charging him for it and he didn't have no
25 money to pay for it.

Tony Young v. Greenwood County Detention Center, et al.

1 Q: So were they depriving him of medicine that he
2 needed?
3 MR. HARTER: Object to the form.
4 A: Yes, sir.
5 Q: And were they depriving him of medical care
6 that he needed?
7 MR. HARTER: Object to the form.
8 A: Yes, because he missed all of his
9 appointments, follow-up appointments up here.
10 Q: And when they took him down to Greenwood, did
11 they keep his collar from him?
12 MR. HARTER: Object to the form.
13 A: Well, like I said, I mean, like I said to him,
14 the mug shot, he doesn't have it on. It wasn't supposed
15 to come off and, I mean, that's just, I was scared to
16 death he was just going to, his head was just going to
17 topple off. He was just, he was in bad shape. I mean,
18 even though we are ex-husband and wife, we have remained
19 close because of our children. And it's just, it was a
20 hard thing for me to have to tell my, well, my son had
21 walked up on the wreck with me and then I had to sit
22 there and tell my daughter what happened to her daddy.
23 I mean, even when I got to hospital, they told me it
24 was, it was something. I wasn't ready to see him. I
25 didn't want, even though they were grown, they didn't

Tony Young v. Greenwood County Detention Center, et al.

1 need to go through this.
2 Q: Have you ever heard anything or do you have
3 any knowledge about him healing improperly because he
4 was denied appropriate medical care?
5 A: I have. I know personally ...
6 MR. HARTER: Object to the form.
7 A: ... that they had not let him see a doctor to
8 do CAT scans and x-rays to see, you know, the
9 imperfections.
10 Q: Okay.
11 A: Or he was not properly followed up care,
12 physical therapy and all that.
13 Q: Do you know if he was supposed to be given
14 something for physical therapy like a ball or something
15 like that?
16 A: Yeah, he was given that. And I don't really
17 think that they give it to him because that was, like I
18 said, it was the right arm that he, I know that had that
19 sore on it. And it is the right arm, the wrist he
20 broke. And I just, it was just, I don't know.
21 Q: Do you know how many broken bones he had?
22 A: Yeah, it was a broke neck, pelvis, wrist.
23 There may have been another break in there. My son can
24 tell you everything about that. I just know of the main
25 ones, his pelvis and back and neck.

Tony Young v. Greenwood County Detention Center, et al.

1 Q: Tell me about the brace on his wrist that was
2 absent when you saw him.
3 A: They never casted it or even put a splint or
4 ever how you do with a broke bone. He just, like I
5 said, he has a little extra piece made onto his walker.
6 Q: To rest it on.
7 A: Yeah.
8 Q: Now, eventually, he had a cast, so was that
9 after he went to jail?
10 A: I didn't see it. I did not see him. I let my
11 kids go see him. Samantha was the main one until he got
12 sentenced?
13 Q: Okay. Alright. And tell me about him walking
14 up the steps when he was injury?
15 A: They did not help him and he was having to go
16 up the, as far as my knowledge, they looked metal. He
17 had to go up and down with no help, you know, toting
18 that.
19 Q: Did he ever fall or anything?
20 A: No, thank God, he didn't.
21 Q: And was he in pain when he did that or do you
22 have any knowledge about that?
23 MR. HARTER: Object to the form.
24 A: He was in serious pain.
25 Q: And you said that you could look in his eyes

Tony Young v. Greenwood County Detention Center, et al.

1 and tell that he was in a great deal of pain?
2 A: Yeah.
3 Q: Tell me about that.
4 A: It's just to be that close and to know
5 somebody that well, you can look in somebody's eyes and
6 I know he was just, he was in a, I'm surprised he
7 didn't, you know, some people collapse, pass out with
8 pain. I'm surprised he wasn't doing any of that.
9 Q: Do you have any knowledge about any complaints
10 he made while he was in jail about not receiving medical
11 care or medicine?
12 A: He had called my daughter and that's when they
13 were going to give him, well, he couldn't pay for the
14 Advil and that's what they were going to give him, not
15 the medicine the doctor gave him. And that's when I
16 would call the nurse and, you know, tell her to check on
17 him, do what she can to help him.
18 Q: Did he ever complain about injuries to his
19 mouth or his teeth he sustained in the collision?
20 A: Not to my knowledge.
21 Q: Okay. Is there anything else that you feel
22 like is important that you need to put on the record
23 while we're on the record? You can say anything you
24 want.
25 A: I know Tony wasn't supposed, he shouldn't have

Tony Young v. Greenwood County Detention Center, et al.

1 been under the steering wheel drinking. You know,
2 either drinking or not, he didn't have a license. He
3 shouldn't have been out there drinking, but he is his
4 own boss and I chose to keep my son at home that day
5 even though he was almost 18. I wouldn't let him leave
6 the house, but it's been over three years now and the
7 man has healed. He's doing good. He's making his
8 threats because he got a letter stating that Tony was
9 coming up for parole. He's thinking bad threats.
10 And I'm ready for him to come home. He didn't make
11 his parole. I spoke at the hearing. My daughter and
12 my son-in-law spoke, and they didn't see fit to, you
13 know, let him go, so he will max out in like a year and
14 a few months. And I just, I'm ready for it to be over
15 with.
16 Q: Yeah. When you say he healed, do you mean
17 physically or he healed from drinking or what do you
18 mean?
19 A: His bones, just being in that serious kind of,
20 I mean, he could have been killed. He could have been
21 in a wheelchair. I mean, thank God he is walking
22 around. I mean, he's going to have some trouble out of
23 this where he had all those breaks.
24 Q: Do you think he would have less trouble going
25 forward if he ...

Tony Young v. Greenwood County Detention Center, et al.

1 A: If he had have had physical therapy
2 MR. HARTER: Object to the form.
3 Q: Do you think he would have healed better if he
4 had appropriate medical care?
5 MR. HARTER: Object to the form.
6 A: Yes.
7 Q: Do you think the lack of medical care that he
8 received contributed to his healing improperly?
9 MR. HARTER: Object to the form.
10 A: Yes.
11 MR. HAWKINS: That's all I have.
12 -----
13 EXAMINATION:
14 By: Harter:
15 Q: Do you have any medical training?
16 A: I read a lot of books. I've been through a
17 lot.
18 Q: Do you have any nursing training?
19 A: Oh, yeah, I was a nursing assistant but not a
20 nurse.
21 Q: You were a nursing assistant?
22 A: Yeah.
23 Q: When was that?
24 A: Let's see. It was back in the nineties. I
25 was working at NHC in Anderson.

Tony Young v. Greenwood County Detention Center, et al.

1 Q: What did you do then?
2 A: Took care of patients.
3 Q: Okay. And were you a CNA?
4 A: I was a nursing assistant, certified nursing
5 assistant. Aced my clinicals and everything.
6 Q: Have you reviewed Mr. Young's medical records?
7 A: He told us everything he was told.
8 Q: Have you reviewed his medical records?
9 A: I ain't read his records, but I know what
10 happened.
11 Q: Did you say he had a break to his right hand?
12 MR. HAWKINS: Object to the form.
13 A: His wrist,
14 Q: His wrist, right wrist?
15 A: I'm saying like, okay, this wrist and maybe
16 the burn, even when I went down for his bond hearing.
17 I didn't fully see him because he was just coated down.
18 Q: The question is did he have a break to his
19 right wrist, the hand he writes with?
20 MR. HAWKINS: Object to the form.
21 A: You can ask my son better, but I'm saying the
22 ...
23 Q: I'm asking you.
24 A: ... right because I'm having to remember me
25 being on this side of the table and Tony being on that

Tony Young v. Greenwood County Detention Center, et al.

1 side.
2 Q: Okay. Do you know which wrist was broken, the
3 ones he writes with or not?
4 A: That little, that little whatchamacallit
5 thing, it had to have been his right wrist.
6 Q: Okay. Did you say that he did not have any
7 follow-up medical appointments with any medical doctors
8 ...
9 A: He didn't have ...
10 Q: Let me finish now. Did you say that he did
11 not have any follow-up medical appointments with any
12 physician after he was taken to the Greenwood County
13 Detention Center?
14 MR. HAWKINS: Objection, mischaracterization
15 of the witness's testimony.
16 A: He had appointments he was not taken to then.
17 Q: Okay. You don't know if he was ever taken to
18 an appointment with ...
19 MR. HAWKINS: Objection, leading.
20 Q: Was he ever taken to any outside appointments
21 after he went to the Greenwood County Detention Center
22 for follow up with any orthopedist or any neurosurgeon?
23 A: No. Can ...
24 Q: I'm sorry, what was that?
25 A: I said are we good?

Tony Young v. Greenwood County Detention Center, et al.

1 Q: Yeah, yeah, we're good as long as we are
2 communicating and understanding and not interrupting ...
3 A: Well, why did you ask me if I was nurse?
4 Q: Ma'am?
5 A: Why did you ask me if I was a nurse or had any
6 medical training? Does it take somebody 15 years or
7 more to be, I mean, it's basically, common sense.
8 Q: Well, you know, it might be. It might be, but
9 then it might not be. I'm not the one to make that
10 decision. The Judge will make that decision, okay.
11 A: Okay.
12 Q: Now, did you ever look at any of the
13 medication administration records of the Greenwood
14 County Detention Center?
15 A: I haven't.
16 Q: Ma'am?
17 A: No, I've never seen anything Greenwood.
18 Q: Okay. Alright. And did you ever look at his
19 hospital records?
20 A: I didn't review them, but my son --- No, I
21 did not.
22 Q: My question is, did you ever look at his
23 hospital records?
24 A: No.
25 Q: Did you ever see any hospital record or

Tony Young v. Greenwood County Detention Center, et al.

1 discharge summary that related to Tony Young?
2 A: Personally, I did not.
3 Q: Right. Did you ever see any hospital record
4 or discharge summary that directed that he have physical
5 therapy?
6 A: No, I did not.
7 Q: Did you ever see any hospital record or
8 discharge summary to indicate that he needed any follow-
9 up dental care after his car wreck?
10 A: No, I did not, but he has had dental work, but
11 it wasn't related to the wreck.
12 Q: Okay. Did you ever see any hospital record or
13 discharge summary that indicated that he needed any kind
14 of ball to use with his hands?
15 A: I did not see any paperwork.
16 Q: That's my question.
17 A: Okay.
18 MR. HARTER: Thank you. We're done.

EXAMINATION:

20
21 By: Mr. Hawkins:
22 Q: I've got a couple of more. Do you think that
23 review of medical records or a discharge summary would
24 have in any way helped you see the pain that Mr. Young
25 was in?

Tony Young v. Greenwood County Detention Center, et al.

1 A: No.
2 Q: And do you need medical training or do you
3 need to see paperwork to know that he's complained of
4 not receiving appropriate medical care?
5 A: No.
6 MR. HAWKINS: That's it. That's all I have.
7
8
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23
24 (There being no further questions,
25 deposition concluded at 11:22 a.m.)

Tony Young v. Greenwood County Detention Center, et al.

STATE OF SOUTH CAROLINA)

: CERTIFICATE

COUNTY OF GREENVILLE)

This is to certify that the deposition of DEBORAH
KNOWLES, consisting of FIFTY-NINE (59) pages is a true and
correct transcript of the testimony given by said deponent
after being first duly sworn; said deposition was reported by
the method of Recording with Backup.

I further certify that I am neither employed by nor
related to any of the parties in this matter or their counsel;
nor do I have any interest, financial or otherwise, in the
outcome of same.

IN WITNESS WHEREOF I have hereunto set my hand and
seal this 5th day of March, 2015.

Sue N. Haynie
Court Reporter
Notary Public for South Carolina
My Commission Expires: 09/16/21

Tony Young v. Greenwood County Detention Center, et al.

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENWOOD	)	
Tony Young,	)	CASE NO. 2016-CP-24-157
Plaintiff,	)	
	)	
v.	)	VOIRE DIRE
	)	
Greenwood County Detention Center and the	)	
Greenwood County Sheriff's Office,	)	
	)	
Defendants.	)	
_____	)	
	)	

1. Does anyone have a strong opinion about jury trials in general?
2. Does anyone have a strong opinion about holding the government responsible for harm it has caused to a citizen?
3. Does anyone have any problems basing their decision solely on the harms and losses caused by the defendants in this case?
4. Does anyone work or have any relatives who work for the Sheriff's Office or the Detention Center?
5. Does anyone work or have any relatives who work in law enforcement?
6. Does anyone work or have any relatives who work in the field of health care?

Respectfully submitted,

Hawkins & Jedziniak, LLC

s/Joshua T. Hawkins

Joshua T. Hawkins, S.C. Bar #78470

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Greenville, South Carolina
September 21, 2018

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENWOOD	)	
	)	
Tony Young,	)	CASE NO. 2016-CP-24-00157
Plaintiff,	)	
	)	
v.	)	PLAINTIFF'S REQUESTS TO
	)	CHARGE
Greenwood County Detention Center and the	)	
Greenwood County Sheriff's Office,	)	
	)	
Defendants.	)	

Plaintiffs' Request to Charge No. 1:

BURDEN OF PROOF—PREPONDERANCE OF EVIDENCE

In order for the Plaintiff to receive the compensation sought, it must be proven by a greater weight or preponderance of the evidence. The greater weight of the evidence may be illustrated by imagining a traditional set of scales. When the case begins, the scales are even. After all of the evidence has been presented, if the scales should remain even, or if they should tip, even slightly in favor of the Defendant, then the Plaintiff will have failed to meet her burden of proof, and your verdict would be for the Defendant.

If, on the other hand, the scales tip, even slightly, in favor of the Plaintiff, then she will have met her burden of proof, and your verdict would be for the Plaintiff.

Of course, there is no way to weigh evidence, except through the exercise of good common sense and judgment. It is entirely a mental process—and the evidence to which you should give the most weight is that which convinces you of its truth, regardless of whom or what source it comes. Ervin's Requests to Charge §1-2.

STATE OF SOUTH CAROLINA	)	
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	)	
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Plaintiff,	)	
	)	
v.	)	PLAINTIFF'S REQUESTS TO
	)	CHARGE
Greenwood County Detention Center and the	)	
Greenwood County Sheriff's Office,	)	
	)	
Defendants.	)	

Plaintiffs' Request to Charge No. 2:

GROSS NEGLIGENCE

A Defendant is guilty of gross negligence if its actions are reckless, willful or wanton. The test for determining whether a tort may be deemed reckless, willful or wanton is whether it has been committed in such a manner and under such circumstances that a person of ordinary reason or prudence would have been conscious of it as an invasion of rights of the injured party. *Martin v. Martin*, 262 S.C. 168, 203 S.E.2d 385 (1974).

STATE OF SOUTH CAROLINA	)	
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	)	
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Plaintiff,	)	
	)	
v.	)	PLAINTIFF'S REQUESTS TO
	)	CHARGE
Greenwood County Detention Center and the	)	
Greenwood County Sheriff's Office,	)	
	)	
Defendants.	)	

Plaintiffs' Request to Charge No. 3:

VIOLATION OF INTERNAL POLICIES OR PROCEDURES

In this case, the Plaintiff claims that the Defendant failed to comply with one or more of its own policies or procedures. Under South Carolina Law, where there is a relevant internal policy or procedure and the plaintiff shows the defendant violated the policy or procedure, the violation of the policy or procedure can be considered by you as evidence of recklessness, willfulness, and wantonness, and may be considered in connection with all other facts and circumstances surrounding the case in determining whether the defendant has been reckless, willful, and wanton. *Caldwell v. K-Mart Corp.*, 306 S.C. 27, 31, 410 S.E.2d 21, 24 (Ct. App. 1991); *Eastern Brick and Tile Co. v. United States*, 281 F. Supp. 216 (D.S.C. 1986); *Felder v. K-Mart Corp.*, 297 S.C. 446, 377 S.E. (2d) 332 (1989).

STATE OF SOUTH CAROLINA	)	
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COUNTY OF GREENWOOD	)	
	)	
Tony Young,	)	CASE NO. 2016-CP-24-00157
Plaintiff,	)	
	)	
v.	)	PLAINTIFF'S REQUESTS TO
	)	CHARGE
Greenwood County Detention Center and the	)	
Greenwood County Sheriff's Office,	)	
	)	
Defendants.	)	

Plaintiffs' Request to Charge No. 4:

CAUSATION AND DAMAGES

A negligent Defendant may be held liable for anything which, after the injury, appears to have been a natural and probable consequence of the Defendant's act or omission and it is not necessary that he should have contemplated the particular event which occurred. *Culbertson v. Johnson Motor Lines*, 226 S.C. 13 (1954).

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENWOOD	)	
	)	
Tony Young,	)	CASE NO. 2016-CP-24-00157
Plaintiff,	)	
	)	
v.	)	PLAINTIFF'S REQUESTS TO
	)	CHARGE
Greenwood County Detention Center and the	)	
Greenwood County Sheriff's Office,	)	
	)	
Defendants.	)	

Plaintiffs' Request to Charge No. 5:

OCCURRENCE

The Plaintiff has alleged multiple occurrences of gross negligence. An occurrence is defined as an “unfolding sequence of events which proximately flow from a single act of negligence.” The Plaintiff has the burden of proving that each act of gross negligence was separate and independent in order for you to find that more than one occurrence occurred. *Boiter v. S.C. Dept. of Trans.*, 393 S.C. 123, 132-133; S.C. Code Ann. § 15-78-30(g); *Chastain v. AnMed Health Foundation*, 388 S.C. 170, 174.

STATE OF SOUTH CAROLINA	)	
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COUNTY OF GREENWOOD	)	
	)	
Tony Young,	)	CASE NO. 2016-CP-24-00157
Plaintiff,	)	
	)	
v.	)	PLAINTIFF'S REQUESTS TO
	)	CHARGE
Greenwood County Detention Center and the	)	
Greenwood County Sheriff's Office,	)	
	)	
Defendants.	)	
	)	

Plaintiffs' Request to Charge No. 6:

SCOPE OF DAMAGES

You should include in your award all damages which are naturally the proximate result of the Defendant's wrongful acts. *Mishoe v. Atlantic Coast Line Ry. Co.*, 186 S.C. 402, 197 S.E. 97 (1938).

STATE OF SOUTH CAROLINA	)	
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COUNTY OF GREENWOOD	)	
	)	
Tony Young,	)	CASE NO. 2016-CP-24-00157
Plaintiff,	)	
	)	
v.	)	PLAINTIFF'S REQUESTS TO
	)	CHARGE
Greenwood County Detention Center and the	)	
Greenwood County Sheriff's Office,	)	
	)	
Defendants.	)	
	)	

Plaintiffs' Request to Charge No. 7:

ACTUAL DAMAGE FOR PHYSICAL INJURY

Actual damages for a Plaintiff who has been physically injured include pain and suffering as well as mental anguish, impairment of health or physical condition and disfigurement. The Plaintiff may also claim any medical expenses or medication expenses.

As with all other facts in this case, unless you are instructed otherwise, the Plaintiff must prove his actual damages by the greater weight of the evidence.

The amount of actual damages is that amount of money that will put the injured person in as near the same position as he would have been had he not been injured.

Coleman v. Levkoff, 128 S.C. 487, 122 S.E. 875 (1924); *Payne v. Holiday Towers, Inc.*, 283 S.C. 210, 321 S.E.2d 179 (Ct.App. 1984).

STATE OF SOUTH CAROLINA	)	
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COUNTY OF GREENWOOD	)	
	)	
Tony Young,	)	CASE NO. 2016-CP-24-00157
Plaintiff,	)	
	)	
v.	)	PLAINTIFF'S REQUESTS TO
	)	CHARGE
Greenwood County Detention Center and the	)	
Greenwood County Sheriff's Office,	)	
	)	
Defendants.	)	

Plaintiffs' Request to Charge No. 8:

MENTAL SUFFERING

The injured party may recover for mental anguish brought about by bodily injury and suffering. If you find that the injured party is entitled to recover damages, you may consider as an element of those damages such pain and suffering and mental anguish that you find, to a reasonable certainty. In assessing mental anguish, you may take into account anxiety or worry experienced by the Plaintiff which resulted from the injuries that the Plaintiff received, if you are satisfied to a reasonable degree of certainty that the Plaintiff did suffer such anxiety and worry.

Ford v. A.A.A. Highway Express, 204 S.C 433, 29 S.E.2d 760 (1944); 22 Am.Jur.

2d Damages §119 (1965)

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENWOOD	)	
	)	
Tony Young,	)	CASE NO. 2016-CP-24-00157
Plaintiff,	)	
	)	
v.	)	PLAINTIFF'S REQUESTS TO
	)	CHARGE
Greenwood County Detention Center and the	)	
Greenwood County Sheriff's Office,	)	
	)	
Defendants.	)	
	)	

Plaintiffs' Request to Charge No. 9:

DETERMINATION OF DAMAGES

In considering the issue of the Plaintiff's damages and losses, the law provides that you shall assess the amount that you find to be justified by a preponderance of the evidence as full, just and reasonable compensation for all of the Plaintiff's damages, no more and no less. This is what the law refers to as actual and compensatory damages. I instruct you that compensatory damages are not restricted to the actual loss of money or the actual loss of time. These damages include both mental and physical aspects of this injury, tangible and intangible, financial and otherwise. By reimbursing or compensating the Plaintiff for what she has lost, in all aspects, you are to attempt to restore the Plaintiff—that is to make her whole, or as she was immediately prior to her injuries.

Elements of Damage:

You should consider the following elements of damage, to the extent that you find they reprieved by a preponderance of the evidence. You should place a value on each

element of damage, in accord with the evidence presented, and all these amounts together to determine the amount of your verdict. I instruct you that you shall evaluate each element of damage individually. The following are the various elements of damage which you may consider:

(a) Medical expenses: These shall include expenses incurred to date, and any which will be incurred in the future;

(b) Loss of earnings: This shall include lost earnings from employment, lost time from work, and loss of earning capacity up until the time of trial. This includes a reduction in earnings which the Plaintiff would have earned but for the injury.

(c) Future lost earnings or loss of earning capacity: This includes any loss of ability to earn money in the future. This includes the reduction in earning capacity which has been discussed by the Plaintiff and the Plaintiff's witnesses;

(d) Value of bodily injury and permanent impairment: The Plaintiff is entitled to the reasonable value of any bodily injuries sustained, including any permanent injury, disability, or impairment, and any loss of capacity to perform bodily functions, or to do daily activities, past and future;

(e) The reasonable value of the Plaintiff's pain, suffering, mental anguish, inconvenience, discomfort, and loss of capacity for the enjoyment of life.

Hasselden v. Atlantic Coast Line, 53 S.E.2d 60 (S.C. 1949); *Oliver v. Blakeney*, 137 S.E.2d 772 (1964); *Watson v. Wilkinson Trucking Co.*, 136 S.E.2d 286 (S.C. 1964); *McNeil v. U.S.*, 519 F.Supp. 283 (D.S.C. 1981) (Loss of Enjoyment); *Gasque v. Heuberlien, Inc.*, 315 S.E.2d 566 (S.C. Ct.App. 1984) (Permanency of injury, pain and

suffering, diminution of earning capacity, disfigurement, psychological trauma, alteration of lifestyle, and past and future medical care).

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENWOOD	)	
	)	
Tony Young,	)	CASE NO. 2016-CP-24-00157
Plaintiff,	)	
	)	
v.	)	PLAINTIFF'S REQUESTS TO
	)	CHARGE
Greenwood County Detention Center and the	)	
Greenwood County Sheriff's Office,	)	
	)	
Defendants.	)	

Plaintiffs' Request to Charge No. 10:

LOSSES AS A RESULT OF PERMANENT DISABILITY

The Plaintiff in this case has presented evidence relating to permanent injuries, limitations, and disabilities. Therefore, you must evaluate the future value of all of the Plaintiff's losses resulting from the permanent injuries which were caused by the Defendant's negligent conduct. In this regard, under South Carolina law, you may consider the Plaintiff's remaining life expectancy for which he will be required to endure the permanent impairment. Under South Carolina law, at his current age of 50, the Plaintiff here is deemed to have a remaining life expectancy of 79 years.

S.C. Code §19-1-150 (1976 Code, as amended); *Fishburne v. Short*, 235 S.E.2d 118 (SC 1977); *Clifford v. Southern Railroad Company*, 69 S.E. 513 (SC 1910).

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENWOOD	)	
	)	
Tony Young,	)	CASE NO. 2016-CP-24-00157
Plaintiff,	)	
	)	
v.	)	PLAINTIFF'S REQUESTS TO
	)	CHARGE
Greenwood County Detention Center and the	)	
Greenwood County Sheriff's Office,	)	
	)	
Defendants.	)	

Plaintiffs' Request to Charge No. 11:

PAIN AND SUFFERING

I further instruct you that pain, suffering, and mental anguish are very material elements of damages under South Carolina law. The Plaintiff is entitled to compensation not only for that pain and suffering which she has endured up until the time of this trial, but for that which you find he will suffer in the future. In considering the future pain and suffering, again, you may consider the Plaintiff's life expectancy to determine the extent of these damages. The amount of compensation to which the Plaintiff is entitled is a matter which is within your discretion. There is no yardstick in our law by which you are to value pain and suffering. This is a matter for your judgment. In evaluating the Plaintiff's pain and suffering, you may consider the extent of the Plaintiff's injuries, the type of treatment he has undergone, the limitations placed upon him, the time during which he has been required to suffer discomfort, and the extent and degree of the discomfort suffered. *Lipscomb v. Poole*, 147 S.E.2d 692 (1966); *Edwards v. Lawton*, 136 S.E.2d 708 (1964); *Long v. US*, 241 F. Supp. 286 (D.S.C. 1965); *Harper v. Bolton*, 124 S.E.2d 54 (1962).

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENWOOD	)	
	)	
Tony Young,	)	CASE NO. 2016-CP-24-00157
Plaintiff,	)	
	)	
v.	)	PLAINTIFF'S REQUESTS TO
	)	CHARGE
Greenwood County Detention Center and the	)	
Greenwood County Sheriff's Office,	)	
	)	
Defendants.	)	

Plaintiffs' Request to Charge No. 12:

DUTY TO PRESERVE EVIDENCE

A party has a duty to preserve evidence during litigation and at any time before the litigation when a party reasonably should know that the evidence may be relevant to anticipated litigation. *Stokes v. Spartanburg Reg'l Med. Ctr.*, 368 S.C. 515.

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENWOOD	)	
	)	
Tony Young,	)	CASE NO. 2016-CP-24-00157
Plaintiff,	)	
	)	
v.	)	PLAINTIFF'S REQUESTS TO
	)	CHARGE
Greenwood County Detention Center and the	)	
Greenwood County Sheriff's Office,	)	
	)	
Defendants.	)	

Plaintiffs' Request to Charge No. 13:

SPOLIATION OF EVIDENCE

When a party fails to preserve material evidence for trial, it is for you to determine first whether the party had a duty to preserve the material evidence. If you find that the party had a duty to preserve material evidence, you must then determine whether the party has offered a satisfactory explanation for that failure. If you find the explanation unsatisfactory, you are permitted – but not required – to draw the inference that the evidence would have been unfavorable to that party. *Stokes v. Spartanburg Reg'l Med. Ctr.*, 368 S.C. 515.

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENWOOD	)	
	)	
Tony Young,	)	CASE NO. 2016-CP-24-00157
Plaintiff,	)	
	)	
v.	)	PLAINTIFF'S REQUESTS TO
	)	CHARGE
Greenwood County Detention Center and the	)	
Greenwood County Sheriff's Office,	)	
	)	
Defendants.	)	

Plaintiffs' Request to Charge No. 14:

NONDELEGABLE DUTY

A Defendant may delegate a *duty* to an independent contractor to provide adequate medical care to inmates of the detention center, but if the independent contractor breaches that duty by acting negligently or improperly, the Defendant remains *liable* for that breach. It actually is the liability, not the duty, that is not delegable. The party which owes the nondelegable duty is liable for any negligent acts of the independent contractor.

Estelle v. Gamble, 429 U.S. 97, 104 (1976); *Simmons v. Tuomey Regional Medical Center*, 533 S.E.2d 312 (S.C. 2000); *see also* F. Patrick Hubbard & Robert L. Felix, *The South Carolina Law of Torts* 654 (1997).

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENWOOD	)	
	)	
Tony Young,	)	CASE NO. 2016-CP-24-00157
Plaintiff,	)	
	)	
v.	)	PLAINTIFF'S REQUESTS TO
	)	CHARGE
Greenwood County Detention Center and the	)	
Greenwood County Sheriff's Office,	)	
	)	
Defendants.	)	

Plaintiffs' Request to Charge No. 15:

SATISFACTION OF JUDGMENT

Under South Carolina law, whether or not the Defendant is protected from liability by insurance shall not be made known to the jury and should not be taken into consideration by the jury when reaching its decision. You should not engage in speculation on this issue. You are not allowed to consider whether the Defendant is or is not insured against liability, or whether the Defendant will satisfy any judgment out of its own funds.

S.C. R. Evid. 411; *Dunn v. Charleston Coca-Cola Bottling Co.*, 311 S.C. 43, 426 S.E.2d 756 (1993); *Sarvis v. Register*, 288 S.C. 236, 341 S.E.2d 791 (1986).

STATE OF SOUTH CAROLINA	)	
COUNTY OF GREENWOOD	)	IN THE COURT OF COMMON PLEAS
	)	
Tony Young,	)	
	)	CASE NO. 2016-CP-24-00157
Plaintiff,	)	
	)	
v.	)	
	)	VERDICT FORM
Greenwood County Detention Center and the	)	
Greenwood County Sheriff's Office,	)	
	)	
Defendants.	)	
	)	

We, the jury, unanimously find as follows:

1. In regard to the claim of Tony Young against the Greenwood County Sheriff's Office for gross negligence, we find for:

_____ **Plaintiff Tony Young**

_____ **Defendant Greenwood County Sheriff's Office**

If you found for Plaintiff Tony Young in Question 1, proceed to Question 2. If you found for Defendant Greenwood County Sheriff's Office in Question 1, you have completed your deliberations regarding the claims of Tony Young, and your Foreperson should sign and date the Verdict Form.

2. In regard to the claim in which we found for Plaintiff Tony Young against Defendant Greenwood County Sheriff's Office, we award damages to Plaintiff Tony Young in the amount of \$ _____.

Proceed to Question 3.

3. Having been charged on the law of occurrences, state the number of occurrences that are supported by the facts and evidence in this case. _____

The Foreperson, acting on behalf of the unanimous jury, must sign and date this form below.

DATE

FOREPERSON

Certificate of Counsel

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

May 7, 2020

s/ Joshua T. Hawkins

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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENWOOD COUNTY
Court of Common Pleas

Frank R. Addy, Jr., Circuit Court Judge

Appellate Case No. 2019-000637
Civil Action No. 2016-CP-24-00157

Tony Young

v.

Greenwood County Detention Center and
Greenwood County Sheriff's Office, Respondents.

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Jul 28 2020

SC Court of Appeals

SUPPLEMENTAL RECORD ON APPEAL

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INDEX

Order dated January 5, 2016	1045
Certificate of Counsel	1047



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION

TONY YOUNG,	§
Plaintiff,	§
	§
vs.	§ CIVIL ACTION NO. 8:13-2185-MGL-KFM
	§
GREENWOOD COUNTY DETENTION	§
CENTER and GREENWOOD COUNTY	§
SHERIFF'S OFFICE,	§
Defendants.	§

ORDER ADOPTING THE REPORT AND RECOMMENDATION,
GRANTING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT
AS TO PLAINTIFF'S 42 U.S.C. § 1983 CLAIMS,
DECLINING TO EXERCISE SUPPLEMENTAL JURISDICTION OVER
PLAINTIFF'S STATE LAW CLAIMS, AND REMANDING THE CASE TO THE
GREENWOOD COUNTY COURT OF COMMON PLEAS

This case was filed as a 42 U.S.C. § 1983 action. Plaintiff is proceeding pro se. The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting that Defendants' motion for summary judgment as to Plaintiff's claims under 42 U.S.C. § 1983 be granted, the Court decline to exercise supplemental jurisdiction over Plaintiff's state law claims but, instead, remand the case to the Greenwood County Court of Common Pleas. The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court.

Mathews v. Weber, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on December 11, 2015, but Plaintiff failed to file any objections to the Report. “[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note). Moreover, a failure to object waives appellate review. *Wright v. Collins*, 766 F.2d 841, 845-46 (4th Cir. 1985).

After a thorough review of the Report and the record in this case pursuant to the standard set forth above, the Court adopts the Report and incorporates it herein. Therefore, it is the judgment of the Court that Defendants’ motion for summary judgment as to Plaintiff’s claims under 42 U.S.C. § 1983 is **GRANTED**. The Court declines to exercise supplemental jurisdiction over Plaintiff’s state law claims. Instead, the case is **REMANDED** to the Greenwood County Court of Common Pleas for consideration of Plaintiff’s those claims.

IT IS SO ORDERED.

Signed this 5th day of January, 2016, in Columbia, South Carolina.

s/ Mary Geiger Lewis
MARY GEIGER LEWIS
UNITED STATES DISTRICT JUDGE

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this Order within thirty days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.

CERTIFICATE OF COUNSEL

The undersigned counsel for the Respondents certifies that the Supplemental Record on Appeal contains no matter which is irrelevant to the appeal and further certifies that now the Record on Appeal and Supplemental Record on Appeal contains all materials proposed to be included by both parties.

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Jul 28 2020

SC Court of Appeals

Respectfully submitted,

CHAPMAN, HARTER & HARTER, P.A.

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Greenville, South Carolina

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENWOOD COUNTY
Court of Common Pleas

The Honorable Frank Addy, Circuit Court Judge

Appellate Case No. 2019-000637

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Aug 17 2020

SC Court of Appeals

Tony Young,.....Appellant,

v.

Greenwood County Detention Center and the Greenwood County Sheriff's Office, Defendants,

Of Which The Greenwood County Sheriff's Office is.....Respondent.

FINAL BRIEF OF APPELLANT

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TABLE OF CONTENTS

Table of Authorities.....	ii
Statement of Issues on Appeal.....	1
Statement of the Case.....	2
Facts.....	3
Arguments	
1. THE APPELLANT WAS DEPRIVED OF HIS CONSTITUTIONAL RIGHT TO A FAIR TRIAL	5
2. THE TRIAL COURT SHOULD HAVE GRANTED A NEW TRIAL	11
3. THE TRIAL COURT ERRED IN DENYING THE APPELLANT’S MOTION FOR A NEW TRIAL UNDER THE THIRTEENTH JUROR DOCTRINE	17
4. THE TRIAL COURT ERRED IN ALLOWING THE JURY TO HEAR DEBORAH KNOWLES TESTIMONY.....	18
5. THE COURT’S COMPARATIVE NEGLIGENCE INSTRUCTION AMOUNTS TO REVERSIBLE ERROR	19
Conclusion	20

TABLE OF AUTHORITIES

CASES

<i>Caldwell v. K-mart Corp.</i> , 306 S.C. 27 (1991).....	9
<i>Cole v. S.C.E.&G.</i> , 355 S.C. 183, 195 (S.C. App. 2003).....	19
<i>Creech v. South Carolina Wildlife and Marine Resources Dep't</i> , 328 S.C. 24, 491 S.E.2d 571 (1997).....	12
<i>Fairchild v. SCDOT</i> , 398 S.C. 90 (2012).....	9
<i>Folkens v. Hunt</i> , 300 S.C. 251, 387 S.E.2d 265 (1990).....	17
<i>Gantt v. Columbia Coca-Cola Bottling Co.</i> , 193 SC 51, 7 SE (2d) 641 (1940).....	6
<i>Gastineau v. Murphy</i> , 331 S.C. 565, 503 S.E.2d 712 (1998).....	12
<i>Hollins v. Richland County School Dist. One</i> , 310 S.C. 486, 490, 427 S.E.2d 654, 656 (1993).....	9
<i>Jinks v. Richland County</i> , 355 S.C. 341, 585 S.E.2d 281 (S.C. 2003).....	9
<i>Madison v. Babcock Ctr., Inc.</i> , 638 S.E.2d 650 (S.C. 2006)	9
<i>Norton v. Norfolk Southern Ry. Co.</i> , 567 SE 2d 851 (2002)	17
<i>Ross v. Paddy</i> , 340 S.C. 428, 436 (S.C. App. 2000)	19
<i>Sentry Select Insurance Co. v. Maybank Law Firm LLC et al.</i> , No. 27806 (S.C. May 30, 2018)	11
<i>Snakenburg v. Hartford Casualty Ins. Co., Inc.</i> , 2992 S.C. 164, 383 S.E.2d 2 (1989).....	11
<i>Sorin Equipment Co., Inc. v. The Firm, Inc.</i> , 323 S.C. 359, 474 S.E.2d 819 (Ct.App.1996).....	17
<i>South Carolina State Highway Dep't v. Townsend</i> , 265 S.C. 253, 217 S.E.2d 778 (1975).....	17
<i>Steinke v. South Carolina Dep't of Labor, Licensing and Regulation</i> , 336 S.C. 373, 520 S.E.2d 142 (1999).....	9, 12
<i>Turner v. Wilson</i> , 86 S.E.2d 876 (1955).....	6

Vinson v. Hartley, 324 S.C. 389, 477 S.E.2d 715 (Ct.App.1996) 11

Welch v. Epstein, 536 S.E. 2d 408 (2000) 12

Youmans v. Dept. of Transp., 670 S.E.2d 1, 380 S.C. 263 (S.C. App., 2008).....19

OTHER AUTHORITIES

Rule 403, *SCRE*.....6

Rule 609, *SCRE*.....6

U.S. Const. Amd VII.....5, 11

STATEMENT OF ISSUES ON APPEAL

1. WAS THE APPELLANT DENIED HIS CONSTITUTIONAL RIGHT TO A FAIR TRIAL?
2. DID THE TRIAL COURT ERR IN DENIAL OF THE APPELLANT'S MOTION FOR A NEW TRIAL?
3. DID THE TRIAL COURT ERR IN DENIAL OF THE APPELLANT'S MOTION FOR A NEW TRIAL UNDER THE THIRTEENTH JUROR DOCTRINE?
4. DID THE TRIAL COURT ERR IN ALLOWING THE JURY TO HEAR DEBORAH KNOWLES' DEPOSITION TESTIMONY?
5. DID THE TRIAL COURT ERR IN INSTRUCTING THE JURY ON COMPARATIVE NEGLIGENCE WHERE THE RESPONDENT PUT UP NO EVIDENCE OF COMPARATIVE NEGLIGENCE?

STATEMENT OF THE CASE

This is an appeal of a verdict returned by a jury in the Greenwood County Court of Common Pleas in a Tort Claims Act case. The case was tried for four days. After four hours of deliberation, the jury returned a defense verdict. The appellant timely filed post-trial motions, which were denied by the trial court. The appellant then timely appealed the trial court's order.

FACTS

On August 10, 2011, the appellant was involved in an automobile collision. The appellant sustained serious injuries in the collision, including several broken bones. The appellant was transported to Greenville Memorial Hospital, where medical providers prescribed him pain medication and a C-spine collar to wear, and he was discharged to “home.” On August 16, 2011, the appellant was charged with Felony Driving Under the Influence in connection with the collision. The appellant was then taken from the hospital to the Greenwood County Detention Center. Upon his arrival at the Detention Center, the appellant was stripped of his medication and C-spine collar.

The appellant filed suit in the Greenwood County Court of Common Pleas on July 10, 2013. The case was tried from September 24, 2018 to September 27, 2018. The appellant presented uncontroverted evidence that the Sheriff’s Office¹ violated its own policies and procedures with regard to its medical screening of the appellant at booking. The appellant moved for a directed at the close of his case and again at the close of trial. Following the trial, the appellant timely filed post-trial motions, including a motion for a new trial.

At trial, the jury heard uncontested evidence that the Sheriff’s Office failed to comply with the Minimum Standards for detention facilities in South Carolina and violated its own internal policies and procedures, which required the Sheriff’s Office to have a physician clear Tony Young for detention. The jury also heard uncontested evidence that the Sheriff’s Office failed to document Tony’s injuries upon booking and refused to give him medication prescribed to him by a physician. However, Tony was prevented from fully developing these issues due to various evidentiary rulings, and the jury’s deliberations were compromised due to instructions communicated to the

¹ The respondent is referred to at various points in the brief as “the Sheriff’s Office.” The Sheriff’s Office operates the detention center where the events related to the action occurred.

jury which, among other things, essentially instructed the jury to disregard relevant and material evidence. The jury's ability to consider relevant and material evidence was compromised in a way that deprived the appellant of a fair trial. Without improper limitations on the presentation of evidence, a reasonable jury, hearing so much uncontested evidence of gross negligence, could have only returned a verdict for the appellant.

ARGUMENTS

1. The appellant was deprived of his constitutional right to a fair trial.

“In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved...” U.S. Const. Amd VII. The United States Constitution entitled Tony to a fair trial by a jury of his peers. He was deprived of that right in the following ways.

First, the Court informed the jury of the reason for the appellant’s arrest, even though that charged offense was not relevant to the issue of whether the Sheriff’s Office was grossly negligent in its treatment of Tony. During *voir dire*, the Court disclosed to the potential jurors the reason for Tony’s detention. The Court first told potential jurors that the appellant was involved in a collision and taken into custody as a result (R. p. 65). The Court then questioned whether any member of the jury panel or a close family member had ever been arrested for or convicted of felony driving under the influence and whether any member of the jury panel or a close family member has “been a victim of a drunk driver” (R. pp. 71-72). Because the Court made these statements during *voir dire*, the appellant had no opportunity to raise objections.

The prejudice that these comments caused to Tony and his case was underscored by the Court’s interaction with one potential juror. The Court told the potential juror, “[t]he appellant basically was ultimately convicted of felony DUI” (R. p. 73). When the Court asked the potential juror if she could be impartial, she responded truthfully that she was not certain she could be (*Ibid.* 73).²

The appellant submitted a motion *in limine* to bar discussion of all prior arrests, including the reason for Tony’s arrest at the time of the events giving rise to this cause of action (R. p. 88).

² The juror was excused.

Since the statements to the jury about the arrest were made before motions *in limine* were heard, the jury was poisoned before the Court ruled on the matter. The appellant made several arguments that under Rules 609 and 403 of Evidence, the Felony DUI conviction should not come into evidence (R. p. 91). The appellant later stipulated that the appellant pled guilty to Felony DUI. The appellant had little choice in the matter, however, because the Court had already informed all potential jurors during *voir dire*. The court acknowledged that, in hindsight, it may have been better to “sh[y] away” from discussing the DUI and another party’s injuries during *voir dire* (R. p. 92). Additionally, the Sheriff’s Office informed the jury that another party was injured during the collision (R. p. 653), even though the appellant had argued to the Court that such information served “no other purpose but to inflame the jury” (R. p. 91)

Second, the Court prevented the appellant from introducing evidence in support of his claims for gross negligence. The appellant proffered evidence from Lonnie Smith about other similar occurrences in which the detention center failed to provide inmates with appropriate medical care (R. pp. 399-401). Counsel for the appellant submitted case law to the Court in support of the relevance of the testimony (R. p. 405). See *Turner v. Wilson*, 86 S.E.2d 876 and *Gantt v. Columbia Coca-Cola Bottling Co.*, 193 SC 51, 7 SE (2d) 641 (1940). Despite this supporting case law, the Court ruled that the testimony was irrelevant (R. p. 353). The jury should have been able to hear and weigh the evidence because Tony was required to show gross negligence, and prior similar occurrences show a likelihood of deprivations to occur in the future.

The Court also prevented the appellant from introducing evidence that the Sheriff’s Office’s failure to give Tony medication prescribed by a physician was grossly negligent. During a hearing on Knowles’ deposition testimony, the Court stated, “[t]hey weren’t depriving him of medication that he needed, period. End of story. They were depriving him of narcotics, which he

can't have in the jail" (R. p. 616). In making this ruling, the Court essentially weighed the evidence for the jury and usurped the jury's power to determine whether it was grossly negligent for the respondent to deny the appellant prescribed medication. Since the policy requiring physician clearance was violated, a jury should have also been able to decide whether refusal to provide prescribed medication to a person with a broken neck, broken back, and shattered teeth constituted gross negligence.

Third, the Court made statements in the presence of the jury that skewed the jury and deprived Tony of his right to a fair trial. Multiple witnesses confirmed that the Sheriff's Office violated the Minimum Standards because those witnesses confirmed that the Sheriff's Office failed to obtain the required physician clearance for Tony's detention upon his arrival at the detention center. Counsel sought to draw attention to this testimony, which is uncontested evidence of gross negligence. As part of the effort to do so, Tony's counsel suggested to Lonnie Smith that Tony should not have been admitted to the detention center without being cleared by a physician, as the Minimum Standards and the Sheriff's Office's own internal policies and procedures require. The Court intervened and made the following statement in the presence of the jury:

We've been down this road before, okay? We've been down the road before. I think you're pumping a dry well here. He was released from the hospital in Greenville. It's what I said [in a side bar away from the jury] earlier this morning. He cannot be boomeranged back between doctors. We need to move on from this of questioning and focus on what your complaint is, and that is the six days without the neck brace, okay? So go . . . (R p. 376).

By commenting about important evidence in the presence of the jury, the Court again weighed the evidence for the jury and made it impossible for the finders of fact to objectively analyze the evidence. Additionally, the conclusion the Court drew for the jury was directly in conflict with the plain wording of the policies and procedures, as well as testimony from numerous witnesses confirming the policy and the requirement to comply with it. The jury should have been

allowed to hear and consider this evidence, and the fact that the Sheriff's Office failed to do the minimum required of it in screening a seriously injured person leaves only one reasonable conclusion: that the Sheriff's Office acted in a grossly negligent manner. The Court's comment endorsed the Sheriff's Office's admitted violation of the Minimum Standards and deprived jurors of the ability to come to the only conclusion that unbiased and fair-minded jurors could: that the refusal to do the *minimum* required by this State and the Sheriff's Office's own policies and procedures constitutes gross negligence.

This was not the only instance in which the Court intervened. When Tony's counsel asked Lonnie Smith whether he had made any effort to gather footage of Tony in the booking area pursuant to a subpoena that Tony's counsel had sent, the Court interrupted the examination of the witness. Without defense counsel making an objection, the Court stated, "All right. Sustained." After defense counsel thanked the Court, the Court continued, "[t]his suit was filed years later, okay? The tapes get written over. Let's focus on what is truly an issue here and stop chasing rabbits, please, okay?" (R. p. 384). The Court also commented on the Sheriff's Office's failure to provide subpoenaed footage during Sharon Middleton's testimony. The Court essentially stated, in the presence of the jury, that Tony's delay in filing excused the Sheriff's Office's failure to produce the footage (R. pp. 437-440). The Court's statements in the presence of the jury deprived the jury of the ability to weigh the importance of the Sheriff's Office's spoliation of subpoenaed evidence that would show Tony at the time of booking and directly address one of the primary issues in the case. By commenting on the evidence and strongly implying that the Sheriff's Office's failure to bring important and subpoenaed evidence to trial was meaningless, the Court deprived Tony of his right to a fair trial.

Similarly, the Court intervened during appellant counsel's examination of Sharon Middleton. Counsel asked Middleton whether anyone from the Sheriff's Office contacted the on-call physician when Tony arrived at the detention center, in light of the clear and undisputed requirement that a doctor clear Tony prior to his admission into the jail (R. pp. 447-450). Middleton began to answer the question, stating, "I don't have any evidence that a doctor---," before counsel for the Sheriff's Office objected. The Court then stated, in the presence of the jury, "[l]et's move along, please. I think we've covered this ground several, several times. So ask her a different question involving a different issue, please" (R. p. 450). The central issue in this case was whether the Sheriff's Office was grossly negligent by, among other things, failing to comply with the Minimum Standards and the internal policies and procedures of the jail.

It is hard to argue that failure to do the *minimum* amount required is not the same as failure to exercise slight care, and gross negligence is defined as the failure to exercise slight care. *Steinke v. SC Dept. of Labor, Licensing*, 520 S.E.2d 142 (1999). It "is a relative term, and means the absence of care that is necessary under the circumstances." *Hollins v. Richland County School Dist. One*, 310 S.C. 486, 490, 427 S.E.2d 654, 656 (1993). Further, it is well-established in South Carolina that causative violations of the law and internal policies and procedures are relevant evidence of negligence and gross negligence. *See Fairchild v. SCDOT*, 398 S.C. 90 (2012) (violations of laws negligence per se); *Caldwell v. K-mart Corp.*, 306 S.C. 27 (1991) (evidence of violations of internal policies admissible as to whether standard of care breached); *Jinks v. Richland County*, 355 S.C. 341, 585 S.E.2d 281 (S.C. 2003) (gross negligence verdict for the Plaintiff supported by, among other evidence, that the conduct "was contrary to County's established detention center policies."); *Madison v. Babcock Ctr., Inc.*, 638 S.E.2d 650 (S.C. 2006).

The Sheriff's Office's violations of the Minimum Standards are directly relevant to the central issues in the case and critical to an analysis of whether the Sheriff's Office was grossly negligent. The Sheriff's Office's failure to call a physician, even when one was on-call, clearly and undisputedly violated the Minimum Standards and internal policies and procedures. This is the very definition of failure to exercise "slight care." The Court not only stopped the witness from fully answering the question on this matter, but also contemporaneously told the jury that the information was unimportant. However, even though the Court intervened on this issue, Middleton did testify that she was not aware of any evidence that staff contacted a physician before removing Tony's neck brace (R. p. 450).

The Court also made comments in the jury's presence about how the appellant arrived at the detention center. The Court informed the jury, "[w]e know that somebody called the Highway Patrol to come and bring him from the hospital" (R. p. 556). Not only was this fact never established through testimony or other evidence, but Tony's discharge papers clearly state that he was "discharged to home." If Tony's treating physicians believed that the appellant was going home, then they would have given him prescriptions and instructions accordingly. By representing that the hospital called for Tony to be picked up by law enforcement or that law enforcement called the hospital, the Court injected information into the record that was not in evidence and prevented the jury from considering whether this additional failure to comply with the Minimum Standards caused the appellant unnecessary pain and suffering.

Fourth, the Court erred in charging the jury on comparative negligence (R. p. 622). In the context of this case, and with the evidence presented at trial, this instruction was confusing, as it was impossible for the appellant to be comparatively negligent. Uncontested testimony was given that the Sheriff's Office deprived the appellant of his neck brace, that this deprivation caused the

appellant pain, and that the Sheriff's Office refused to comply with the policy that required a physician's clearance. Even if the evidence had been contested, it would have been impossible for Tony to influence whether the Sheriff's Office complied with the Minimum Standards and its policies and procedures.

Finally, the appellant's closing argument was hampered by the objections that the Court improperly sustained. During his closing argument, Tony's counsel stated, "[w]hat you do is directly going to impact what the sheriff's office is allowed to do in the future in all those different areas" (R. p. 637). The Court sustained the objection, but the argument is entirely proper and tracks well-established South Carolina law. *See Snakenburg v. Hartford Casualty Ins. Co., Inc.*, 2992 S.C. 164, 383 S.E.2d 2 (1989) ("A basic purpose of the common law is to preserve the community's security and liberty by enforcing a reciprocal system of rights and duties among its members."); *Sentry Select Insurance Co. v. Maybank Law Firm LLC et al.*, No. 27806 (S.C. May 30, 2018) ("The deterrent purpose of tort law is also served by our decision. One reason for making a defendant liable in tort for injuries resulting from a breach of his duty is to prevent such injuries from occurring. Underlying this justification is the assumption that potential wrongdoers will avoid wrongful behavior if the benefits of that behavior are outweighed by the costs imposed by the payment of damages..."). Tony's counsel should have been able to make the arguments at issue to the jury.³ This, too, worked to deprive the appellant of his right to a jury trial guaranteed by the South Carolina Constitution and is reversible error.

2. The Trial Court should have granted a new trial.

"The trial judge must grant a new trial absolute if the amount of the verdict is grossly

³ Counsel for the Sheriff's Office objected six times during Tony's closing argument. Four times, the Court limited counsel's ability to argue the deterrent effect of a verdict by either sustaining objections or commenting on the closing.

inadequate...” *Vinson v. Hartley*, 324 S.C. 389, 477 S.E.2d 715 (Ct.App.1996). In this case, the verdict is not supported by the evidence presented at trial, so the appellant is entitled to a new trial. Defense witnesses admitted throughout trial that the Sheriff’s Office violated the Minimum Standards and its policies related to injured persons, and the defense presented no evidence to rebut this fact. As a result, there was no genuine issue of material fact. Because no reasonable juror could have returned a defense verdict had Tony gotten a fair trial⁴, the Court should have granted a directed verdict in the appellant’s favor.

If there is no evidence to support the trial court’s ruling, then the Court of Appeals may reverse the trial court. *Creech v. South Carolina Wildlife and Marine Resources Dep’t*, 328 S.C. 24, 491 S.E.2d 571 (1997). See also *Welch v. Epstein*, 536 S.E. 2d 408 (2000). See also *Steinke v. South Carolina Dep’t of Labor, Licensing and Regulation*, 336 S.C. 373, 520 S.E.2d 142 (1999); *Gastineau v. Murphy*, 331 S.C. 565, 503 S.E.2d 712 (1998). At trial, the appellant offered uncontroverted evidence of the Sheriff’s Office’s violations of the Minimum Standards and, as a result, gross negligence. Since a reasonable jury could have only returned a verdict for Tony if he had been given a fair trial, the Court should have awarded JNOV. The result reached by the jury could only be the result of the Court’s influence on the jury through improper comment and improperly sustained objections, as set out above.

The jury heard ample and uncontested evidence that the respondent violated its own policies and procedures. Tony testified extensively about his injuries, his physical state at the time of booking, and the booking process. At the time that he arrived at the detention center, Tony had sustained serious injuries, including broken teeth and multiple fractures in each of the following: pelvis, neck, and back (R. p. 526). Tony testified that the Sheriff’s Office took his prescribed neck

⁴ The appellant believes the verdict was a result of the Court’s comments, and that if the jury had not been tainted by the Court’s comments, the evidence could only lead the jury to a verdict for the plaintiff.

collar, and that the pain in his neck increased as a result (R. p. 529). After taking Tony's neck brace, the Sheriff's Office forced Tony to stand in a shower with a walker and a casted arm (R. pp. 528-529). Tony's daughter, Samantha Porter, verified that he did not have his neck brace when she visited him at the detention center (R. p. 486). This testimony was not rebutted by any credible evidence (R. pp. 506-507).⁵ Porter also testified about Tony's physical condition when he arrived at the detention center, stating that he had a cast on his arm, required the assistance of a walker, and was covered in road rash (R. p. 487).

Tony testified that the Sheriff's Office failed to call a doctor to examine him before booking, that the Sheriff's Office took his neck brace, and that the Sheriff's Office kept his neck brace from him for six days, until he first saw a doctor at the detention center (R. pp. 537-538, 531). Tony testified that the Sheriff's Office was in custody and control of his prescribed medication, which the Sheriff's Office did not return to him upon his release from the detention center (R. p. 539). The defense offered no evidence to rebut this fact and, indeed, could not, as the medication was listed as part of Tony's belongings at the time of booking and was not included in the belongings returned to him at his release. Presumably, this means that the Sheriff's Office lost, destroyed, or kept the medication that a doctor deemed necessary for Tony's condition. Tony testified that he was in pain throughout his detention and attempted to get medical treatment, as reflected in Sick Call forms he submitted, which contained the phrase, "I hate to keep bugging yall" (R. p. 548).

Tony also testified about false documents generated by the Sheriff's Office. Tony arrived

⁵ Deborah Knowles testified in her deposition that Young had his collar on at the bond hearing, but her testimony should have been excluded (R. p. 520). Knowles was taking medication for seizures and fluid on her brain at the time of her deposition. Her testimony was flawed in many demonstrable ways, including testimony that Young was wearing the brace in his mugshot, which the mugshot itself proves wrong, and testimony that Young's cast was on his right hand, when it was actually on his left hand.

at booking with extensive injuries, missing teeth from the wreck, a cast, and a walker. Nevertheless, the Sheriff's Office noted that Tony had no observable medical issues, that his mobility was not restricted in any way, and that he did not have any painful dental conditions. The Sheriff's Office ignored Tony's injuries, despite the fact that he arrived with multiple broken bones, wore a cast and neck brace, required the use of a walker, and had his front teeth freshly knocked out (R. pp. 535-536). This error was proven by the Sheriff's Office's own documents and is consistent with the documents related to Tony's booking being a complete mess, riddled with errors and falsehoods. The records even described Tony, who is clearly Caucasian, as a black male (R. p. 604).

Gene Powell verified that Tony's injuries were incorrectly documented on a detention form document (R. p. 209). When an inmate arrives at the detention center, employees are required to mark whether an inmate has any injuries, casts, or deformities. On Tony's form, the Sheriff's Office noted *no* injuries, casts, or deformities, despite the fact that the appellant had multiple broken bones, his arm was in a cast, and his neck was in a brace. It is little wonder why Tony did not receive appropriate treatment, seeing as the Sheriff's Office refused to acknowledge or record his serious injuries.

The jury heard testimony from Katie Gilmore, an employee of the Sheriff's Office, that the Minimum Standards in South Carolina require detention centers to have a physician examine an inmate who arrives at the detention center "severely injured" (R. p. 220). The witness went on to differentiate between a nurse and a "doctor" or "an MD" (R. p. 220). Gilmore further testified that an inmate must "be in good physical health" in order to be admitted to a detention center (R. p. 229). According to Gilmore, if an inmate is visibly injured upon arrival, then the "officer present will refuse the subject until the committing officer takes the subject to the hospital" (R. p. 230).

When asked if there were any exceptions to these Minimum Standards, the witness could not offer any (R. p. 248).

The jury heard testimony from Sherry Bouknight, a detention center nurse, that Tony's hospital records indicated that he was "discharged to home" (R. p. 261). Bouknight further testified that the Sheriff's Office did not allow him to have medication prescribed to him by his treating physician, even though the Sheriff's Office ignored its duty to have Tony examined by a physician (R. p. 262). Bouknight confirmed that Tony had multiple bone fractures at the time that the Sheriff's Office denied him prescribed medication and forced him to remain at the detention center without physician's clearance (R. p. 263). Bouknight testified that Tony's injuries would have caused him to be in pain at the time that the Sheriff's Office deprived him of his prescribed pain medication (R. p. 263). Bouknight also verified that Tony's family expressed concern because the Sheriff's Office refused to give Tony his medication (R. p. 271).

The jury heard testimony from Beverly Weaver, a detention center employee, who was present when Tony arrived. Weaver testified that she was trained on the Minimum Standards and that she was aware of the requirement that injured inmates be cleared by a physician before they be housed (R. p. 343). Weaver further testified that she saw Tony's injuries and recorded his mobility as unrestricted, even though he had a broken neck, several other broken bones, a neck brace, and an arm cast (R. pp. 351-352).

The jury also heard from Lonnie Smith, who was on duty at the detention center when Tony arrived. Smith admitted that Tony was "pretty beat up" and visibly injured upon his arrival (R. p. 367). He also admitted that he could not explain why Tony's hospital records showed that he was released to "home." (R. p. 370). Smith acknowledged that doctors prescribed the appellant Lortab, which the detention center did not allow him to take, and that hospital staff recorded that

he was going to leave the hospital with a “friend,” even though he was collected and transported by a state trooper. (R. pp. 370-371). This evidence establishes that doctors at the hospital did not clear Tony for transport to the detention center before the Sheriff’s Office refused to have a physician evaluate him.

Smith could not explain why the appellant’s neck brace was documented on one date and not documented again for seven days (R. pp. 390-391). Smith testified, “I have no evidence when [Tony’s neck brace] was returned,” and admitted that it would constitute a violation of the policy to keep the appellant’s neck brace from him for six days (R. p. 383). Smith’s testimony supported Tony’s assertions that his injuries were incorrectly documented upon his arrival (R. p. 393). Michael Holtzclaw, the deputy who fingerprinted Tony, similarly admitted that Tony’s neck brace should not have been kept from him because such a deprivation was not safe (R. pp. 596-597).

Sharon Middleton, the assistant jail administrator at the time, admitted that Tony had significant injuries when he arrived at the detention center, was covered in road rash, moved slower than normal, and was wearing a neck brace (R. pp. 420-421). She noted the importance of giving inmates with spinal injuries special attention, especially because detention center employees are not always aware of the extent of an inmate’s injuries when he arrives (R. pp. 421-422). Middleton also verified that it would be a violation of policy to deprive an inmate of a neck brace for six days (R. p. 425). However, she confirmed that the Sheriff’s Office could *not* verify how long it deprived Tony of his neck brace. When asked directly, “[do] you know of anybody that can say how long that neck brace was gone for?” Middleton responded “[n]ot at this time” (R. p. 427). When asked whether she knew of anyone with knowledge of how long the deprivation lasted, Middleton responded “I do not” (R. p. 427). Middleton could not point to a document showing Tony’s neck brace was ever given back to him and acknowledged that progress notes showed the brace missing

for six days (R. pp. 427, 432).

Finally, Middleton was questioned about General Order 2.5, which requires the detention center to provide paperwork to the respondent showing he is fit to be incarcerated (R. pp. 443-445). When asked whether the Sheriff's Office complied with General Order 2.5, Middleton responded by saying "...it would not have been necessary to send him out to be re-evaluated..." (R. p. 445). In addition to being unresponsive, this answer conclusively establishes the Sheriff's Office's willful violation of yet another rule. Middleton then, after Court intervention, admitted that the Sheriff's Office failed to have a physician examine Tony upon arrival at the detention center (as required by the Minimum Standards) (R. p. 448).

The jury heard substantial uncontested evidence that the Sheriff's Office: 1) failed to get physician's clearance as required by the Minimum Standards, 2) refused to even contact the physician on call at the time, 3) filled out documents incorrectly, 4) withheld prescribed medication, and 5) failed to provide documentation of physician clearance as required by General Order 2.5. This uncontested evidence conclusively establishes that the Sheriff's Office failed to exercise "even slight care" in its treatment of Tony Young. No reasonable juror could have ignored this evidence and found for the Sheriff's Office without improper Court intervention. As a result, the appellant requests that this Court enter judgment in his favor notwithstanding the verdict.

3. The Trial Court erred in denying the appellant's motion for a new trial under the Thirteenth Juror Doctrine.

"South Carolina's thirteenth juror doctrine is well established as the standard for granting a new trial in state law actions." *Norton v. Norfolk Southern Ry. Co.*, 567 SE 2d 851 (S.C. 2002). See also *Folkens v. Hunt*, 300 S.C. 251, 387 S.E.2d 265 (1990); *Sorin Equipment Co., Inc. v. The Firm, Inc.*, 323 S.C. 359, 474 S.E.2d 819 (Ct.App.1996). The thirteenth juror doctrine allows the

trial judge to sit as the thirteenth juror when he finds “the evidence does not justify the verdict,” and then to grant a new trial based solely “upon the facts.” *Id.* at 254, 387 S.E.2d at 267 (citing *South Carolina State Highway Dep't v. Townsend*, 265 S.C. 253, 217 S.E.2d 778 (1975)).

For the reasons articulated in the appellant’s argument for judgment notwithstanding the verdict, the appellant respectfully asserts that the Trial Court erred in denying his motion for a new trial under the thirteenth juror doctrine. Because no reasonable juror could have found for the respondent if the evidence had been presented without improper comment, the trial judge, sitting as the thirteenth juror, could not have found for the Sheriff’s Office. The evidence in this case does not justify the verdict, so the appellant is entitled to a new trial based solely upon the facts.

4. The Trial Court erred in allowing the jury to hear Deborah Knowles’ deposition testimony.

Debra Knowles, Tony’s former spouse, was deposed prior to trial. Knowles, who was in poor health in the last years of her life, died before trial. Tony’s counsel moved *in limine* to exclude Knowles’ deposition testimony from being introduced at trial. Tony’s counsel argued that the deposition testimony would be confusing to the jury, as Knowles was taking medication for several health ailments – including seizures and fluid on her brain – at the time that she was deposed (R. pp. 97-98). The transcript of Knowles’ deposition contained information about Knowles’ health problems and medications (R. pp. 513-514).

During her deposition, Knowles’ testimony indicated that her memory was unreliable. She testified that Tony had several broken bones at the time that he arrived at the detention center and was supposed to wear his neck brace (R. p. 520). However, she also testified that Tony had the collar on in his mug shot, even though it is clear from the photograph introduced at trial that Tony was not wearing the collar (R. p. 520). Additionally, Knowles was unable to accurately recall which of Tony’s arms was casted when he arrived at the detention center (R. p. 519).

During trial, Knowles' daughter, Samantha Porter, testified that Knowles suffered from seizures, took medication for seizures and fluid on her brain, and struggled with cognitive issues during the last few years of her life, including when her deposition was taken (R. pp. 488-498). However, even with Porter's testimony, Knowles' deposition testimony was still confusing to the jury. Because Knowles was deceased, she was not available for the jury's observation. As a result, the jury was unable to evaluate Knowles' cognitive functioning and reliability. The Court should have excluded Knowles' deposition testimony from trial.

5. The Court's Comparative Negligence Instruction Amounts to Reversible Error.

The Sheriff's Office had the burden of proving the affirmative defense of comparative negligence but failed to present any evidence that Tony was comparatively negligent or that comparative negligence proximately caused any of the harm. *Youmans v. Dept. of Transp.*, 670 S.E.2d 1, 380 S.C. 263 (S.C. App., 2008) ("Comparative negligence is an affirmative defense."); *Cole v. S.C.E.&G.*, 355 S.C. 183, 195 (S.C. App. 2003) ("The trial court committed reversible error by not placing the burden of proving the affirmative defense of assumption of risk with SCE & G in its jury charge."). Further, it is reversible error to charge the jury on comparative negligence without also charging the jury that the defendant bears the burden of proof on the affirmative defense. *Ross v. Paddy*, 340 S.C. 428, 436 (S.C. App. 2000). ("Because we conclude comparative negligence is an affirmative defense, the trial court erred in not charging the jury that Paddy had the burden of proving Ross' negligence."). Accordingly, the charge should not have been given at all, and even if the evidence justified giving the charge, the charge's omission of the burden of proof was reversible error.

Tony's counsel addressed the problem with the Court, and stated "Judge, the way we see it, the proof has come out at trial, doesn't really constitute any evidence of comparative negligence

because...it could be misleading to the jury...” (R. p. 617). Counsel went on to state “...if we charge the jury on comparative negligence, we’d be charging on something that there weren’t facts in the record to support it and it may be misleading to the jury.” (R. p. 617).

The Court never specifically instructed the jury that comparative negligence is an affirmative defense and that the defendant had the burden of proof. The Court instead charged the jury “Defendant must prove by a preponderance...of evidence that the plaintiff breached a duty of care which proximately caused the plaintiff’s injuries...” (R. p. 694). The Court then instructed the jury that “The same law that I’ve instructed you on that you will use in deciding whether the defendant was grossly negligent should be used in deciding whether the plaintiff was negligent” (R. p. 694). This was confusing because the instructions referred to by the Court stated that the plaintiff had the burden of proof (R. pp. 691-692). The instruction should not have been given since there was no evidence of comparative negligence presented at trial, and the instruction that was given was confusing because it referred the jury back to an instruction where the plaintiff had the burden of proof. The case should be remanded for a new trial.

CONCLUSION

The appellant respectfully requests that the Court grant a new trial. In the alternative, the appellant requests that the Court remand this action with instructions for the trial court to award the appellant judgment as a matter of law and schedule a damages hearing.

Respectfully submitted,

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August 14, 2020

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENWOOD COUNTY
Court of Common Pleas

The Honorable Frank Addy, Circuit Court Judge

Appellate Case No. 2019-000637

RECEIVED

Aug 17 2020

SC Court of Appeals

Tony Young,.....Appellant,

v.

Greenwood County Detention Center and the Greenwood County Sheriff's Office, Defendants,

Of Which The Greenwood County Sheriff's Office is.....Respondent

CERTIFICATE OF COUNSEL

The undersigned certified that this Final Brief complies with Rule 211(b), SCACR.

Respectfully submitted,

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Tony Young

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Greenwood County Detention Center and
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Jul 28 2020

SC Court of Appeals

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TABLE OF CONTENTS

Table of Authorities	ii
Counter-Statement of the Issues on Appeal	1
Counter-Statement of the Case	2
Argument	4
I. The appellant received a fair trial consistent with his constitutional rights.	6
II. The Circuit Judge did not abuse his discretion in denying the Appellant’s Motion for a New Trial Absolute.	16
III. The Circuit Judge did not abuse his discretion in denying Appellant’s Motion for a New Trial.	17
IV. The Circuit Judge did not abuse his discretion in denying Appellant’s Motion for New Trial based on the Thirteenth Juror Doctrine.	20
V. The Circuit Judge did not abuse his discretion in allowing the jury to hear deposition testimony of Deborah Knowles.	23
VI. The Circuit Judge correctly instructed the jury on comparative negligence.	24
Conclusion	25

TABLE OF AUTHORITIES

Cases

<i>Boozer v. Boozer</i> , 300 S.C. 282, 283, 387 S.E.2d 674, 675 (Ct. App. 1988)	16
<i>Clark v. Cantrell</i> , 339 S.C. 369, 529 S.E.2d 528 (2000)	24
<i>Caldwell v. K-Mart Corp.</i> , 306 S.C. 27, 410 S.E.2d 21 (Ct. App. 1991)	18
<i>Cole v. Raut</i> , 378 S.C. 398, 663 S.E.2d 30 (2008)	24
<i>Folkens v. Hunt</i> , 300 S.C. 251, 387 S.E.2d 265 (1990)	21, 22
<i>Gantt v. Columbia Coca-Cola Bottling Co.</i> , 193 S.C. 51, 7 S.E.2d 641 (1940)	10
<i>Sorin Equipment Co., Inc. v. The Firm, Inc.</i> , 323 S.C. 359, 474 S.E.2d 819 (Ct. App. 1996)	21
<i>South Carolina State Highway Dep't v. Clarkson</i> , 267 S.C. 121, 226 S.E.2d 696 (1976)	21, 22
<i>South Carolina State Highway Dep't v. Townsend</i> , 265 S.C. 253, 217 S.E.2d 778 (1975)	21
<i>Turner v. Wilson</i> , 86 S.E.2d 867, 227 S.C. 95 (1955)	10
<i>Umhoefer v. Bollinger</i> , 298 S.C. 221, 379 S.E.2d 296 (Ct. App. 1989)	16
<i>Welch v. Epstein</i> , 342 S.C. 279, 536 S.E.2d 408 (Ct. App. 2000)	17

Rules

Rule 403, SCORE	8
Rule 609, SCORE	8, 9

COUNTER-STATEMENT OF ISSUES ON APPEAL

1. Did the appellant receive a fair trial consistent with his constitutional rights?
2. Did the Circuit Court Judge err in denying Appellant's Motion for a New Trial?
3. Did the Circuit Court Judge err in denying Appellant's Motion for a New Trial based on the Thirteenth Juror Doctrine?
4. Did the Circuit Court Judge err in allowing the jury to hear deposition testimony of Deborah Knowles?
5. Did the Circuit Court Judge err in instructing the jury on comparative negligence?

COUNTER-STATEMENT OF THE CASE

This appeal arises out of an action filed by Tony Young on July 10, 2013, in the Court of Common Pleas for Greenwood County designated as Case Number 2013-CP-24-00655 alleging state and federal claims. On August 12, 2013, the defendants filed a Notice of Removal pursuant to 28 U.S.C. §1441 and §1446 in the United States District Court, District of South Carolina, designated as civil action number 8:13-cv-02185-MGL-KFM. The defendants filed an Answer denying the merits of any federal or state claim and setting up various defenses.

The plaintiff alleged that the defendants violated his federal and state constitutional rights and were grossly negligent while Young was in their custody. The United States District Court granted defendants' motion for summary judgment as to the claims brought pursuant to 42 U.S.C. §1983 and declined to exercise supplemental jurisdiction over the state law claims and remanded the case to the Greenwood County Court of Common Pleas. [R. p. 1045.] The case was then designated as Civil Action Number 2016-CP-24-00157. The remaining state law claim was tried before a jury September 24, 2018 through September 27, 2018 before The Honorable Frank Addy, Jr.

At the end of the three-day trial the jury deliberated and returned a verdict in favor of the defense, finding that the defendants were not grossly negligent in regards to their duty to provide access to reasonable and necessary medical care and

treatment to the plaintiff while he was incarcerated at the Greenwood County Detention Center. The plaintiff filed post-trial motions on October 5, 2018. Plaintiff's motions were vague, unsupported by any specific evidence or objections, and failed to cite any law. Plaintiff's motions were denied by Order dated March 27, 2019. The trial judge found that the "Plaintiff and Defendants presented conflicting evidence on the issue of gross negligence, and the jury simply found that the Plaintiff had not met his burden of proving the Defendant acted negligently in providing medical care to the plaintiff. In light of the contested nature of the testimony and out of due respect and deference to the findings of the trier of fact, the court declines to grant the Plaintiff's motion for a new trial." [R. p. 2.]

On April 15, 2019, the South Carolina Court of Appeals received plaintiff's Notice of Appeal.

ARGUMENT

The allegations set forth in Plaintiff's Complaint arise out of his lawful arrest on August 16, 2011 for Felony Driving Under the Influence after he was involved in an automobile accident on August 10, 2011. Following the automobile accident, appellant was taken to Greenville Memorial Hospital where he was treated and subsequently discharged on August 16, 2011. Appellant was picked up from the hospital by a South Carolina Highway Patrolman who then transported him to the Greenwood County Detention Center.

Appellant was booked at the Greenwood County Detention Center on August 16, 2011. Appellant's allegations center around the first six (6) days of his detention at the Greenwood County Detention Center. Appellant alleges that his neck brace was taken from him for the first six (6) days and that he was denied medical treatment and medication for the first six (6) days of his detention. The appellant further alleges that he was denied physical therapy which he claims was deemed necessary by his physician; however, no such order was ever been provided.

After the first six (6) days however, appellant says the neck brace was returned to him and he wore it until it was no longer necessary. In addition, appellant testified that after the first six (6) days he was given pain medication and that he continuously received medication almost daily throughout the duration of his time at GCDC; however, it was inadequate. Furthermore, appellant received materials in order to

change his wound dressings.

Young arrived at the GCDC at approximately 5:00 pm on August 16, 2011. Upon his arrival to the GCDC, Young went through the intake/ booking process. Appellant's neck brace was removed momentarily so that he could be photographed and so the collar could be checked for contraband, however, it was returned to him shortly thereafter. In addition, appellant's collar was removed for the booking photo because it would cover identifying marks such as tattoos, scars, birthmarks, etc, and so the officers could check the collar for contraband, weapons, etc. for the safety and security of the facility and everyone in it.

As part of the booking process, appellant went through a medical screening. Nurse Sherry Bouknight evaluated plaintiff when he arrived at the detention center. Nurse Bouknight started Young on ibuprofen instead of the narcotic pain medicine he was prescribed, Loratab, and also ordered him naproxen which was scheduled to be delivered on August 18, 2011. Pursuant to detention center policy, narcotic medication is prohibited. In addition, due to his medical issues, plaintiff was classified as a Special Needs Inmate and was placed in a single cell. The Special Needs Inmate Report dated August 16, 2011, the day appellant arrived, provides as follows: check wounds daily, check C Spine Collar daily, extra mattress if needed, if meds for pain needed other than am/pm med pass complete sick call, 15 minute medical watch, and no stairs.

Contrary to appellant's allegations, the Medication Administration Records, provide that he received medication on the same day he arrived, August 16, 2011, and the following five days. For the reasons set forth below, Judge Addy properly denied appellant's post-trial motions and this Court should affirm his decision and dismiss the appellant's appeal.

I. The appellant received a fair trial consistent with his constitutional rights.

Argument 1 of appellant's brief sets forth various allegations about the trial proceedings; however, the appellant has failed to set forth any law, statutory or case law, supporting his position that the jury verdict should be overturned. The appellant received a fair trial before a jury of his peers consistent with his constitutional rights. Specifically, the appellant takes issue with information revealed during voir dire, evidence rulings, and statements the Court made in the presence of the jury. For the reasons set forth below, the respondent respectfully submits that the appellant received a fair trial and the trial judge acted reasonably and within the bounds of his discretion at all times; therefore, the Order denying appellant's post-trial motions should be affirmed and the jury verdict should be upheld.

A. VOIR DIRE

The appellant contends that he did not receive a fair trial because jurors were told during voir dire that the appellant was involved in a collision and taken into

custody as a result and they were asked whether any member of the jury panel or a close family member had ever been arrested for or convicted of felony driving under the influence and whether any member of the jury panel or a close family member had been a victim of a drunk driver. (Appellant's Initial Brief, p.5.)

The trial judge did not abuse his discretion during voir dire. During voir dire the judge asked:

Is there any member of the jury panel or any close family member who, to your knowledge, has ever been either arrested for felony driving under the influence or been a victim of a drunk driver, or someone who is convicted of felony DUI? Any member of the jury panel who's either been arrested themselves, had a family member arrested or been a victim or had a close family member who was a victim of a felony DUI? If so, please stand.

(R. pp. 71-72).

This case is a suit against the Greenwood County Detention Center concerning the care the appellant received while detained there, and the trial judge noted, "it's natural for any juror when Mr. Young testifies, if he's not asked why he's in jail, they're going to wonder why he's in jail." (R. p. 92).

The trial judge had the jurors who answered yes to the above question approach to discuss. He did inform a couple jurors who approached the bench that the appellant was convicted of Felony DUI; however, upon information and belief, none of those jurors were seated on the jury panel and the appellant was free to use his strikes to prevent them from being seated on the jury. (R. p. 72, R. pp. 74-75.)

It is obvious that the appellant had pending charges of some sort and it would be in fact be prejudicial to the defendant if the jury were not informed that the plaintiff had injuries upon his arrival to the detention center that had nothing to do with the care he received at the detention center and were in no way the result of any acts and/or omissions on part of the defendant. In addition, it was clear that the appellant was a detainee at the Greenwood County Detention Center based on some criminal charge, and informing the jury as to the nature of his charge did not cause any prejudice. In fact, failing to identify the charge could leave the jury to speculate his involvement in a more heinous or violent crime such as criminal sexual conduct with a minor, armed robbery, murder, criminal domestic violence, etc.

Furthermore, the appellant's conviction of Felony DUI is admissible under Rule 609 of the South Carolina Rules of Evidence which provides in pertinent part: "evidence that a witness other than an accused has been convicted of a crime shall be admitted, subject to Rule 403, if the crime was punishable by death or imprisonment in excess of one year under the law under which the witness was convicted, and evidence that an accused has been convicted of such a crime shall be admitted if the court determines that the probative value of admitting this evidence outweighs its prejudicial effect to the accused." *See*, Rule 403, 609 SCRE.

The appellant was sentenced to two years in prison for his conviction of Felony DUI, and his conviction is admissible for impeachment purposes under Rule

609 and the trial judge did not abuse his discretion by admitting the conviction into evidence. The appellant did not ask the trial judge for a limiting instruction in that regard.

In addition, the appellant agreed to stipulate that he pled guilty to Felony DUI; thereby waiving any objection to its admissibility. (R. pp. 91-96). The appellant testified that he was convicted of Felony DUI and sentenced to SCDC as a result of this accident. (R. pp. 560-561.) The appellant stipulated to the matter; therefore, the trial judge's Order denying appellant's post-trial motions should be affirmed.

B. INTRODUCTION OF EVIDENCE

The appellant alleges that the trial judge erred when he allegedly prevented the appellant from introducing evidence of other occurrences and evidence to support his argument that the failure to give prescribed medication was grossly negligent.

The appellant states that he:

proffered evidence from Lonnie Smith about other similar occurrences in which the detention center failed to provide inmates with appropriate medical care (TT 344-346). Counsel for the appellant submitted case law to the Court in support of the relevance of the testimony. (TT 350) ... Despite this supporting case law, the Court ruled that the testimony was irrelevant (TT 353). The jury should have been able to hear and weigh the evidence because Tony was required to show gross negligence, and prior similar occurrences show a likelihood of deprivations to occur in the future.

(Appellant Initial Brief, p. 6.) [R. pp. 399-401, 405, 408].

First, the case law that appellant's argument relies upon is easily distinguishable from the present facts. The appellant cited two cases one from 1940 and the other from 1955. The first, *Turner v. Wilson*, 86 S.E.2d 867, is an action brought against a sandwich manufacturer by a customer who purchased a deviled egg sandwich through a retailer and allegedly became sick after eating it. The facts are completely different. In that case the Court held that when, under the same conditions, several people who have eaten the same food and become similarly ill, the inference may be warranted that the food was unwholesome and was the cause of the illness. *Id.* However, even in the context of *Turner*, the appellant here set forth no evidence of any other detainees whose neck brace or similar medical equipment was kept from them.

The second case the appellant relies on is *Gantt v. Columbia Coca-Cola Bottling Co.*, 193 S.C. 51, 7 S.E.2d 641 (1940), which involves a minor suing the manufacturer for allegedly putting the harmful ingredient "bluestone" in a bottle of Coca-Cola. The Court in *Gantt* held that other instances should have been admissible; however, the facts are totally unrelated to those involved here. *Id.* The two cases the appellant relies on involve the Pure Food Act and neither of which involve gross negligence. The appellant here made an effort to suggest that inmate "complaints" about any and all types of medical care had some probative and relevant value to this case.

The evidence proffered by the appellant was testimony by Lonnie Smith concerning complaints filed by other inmates and as the Court noted, there was no evidence “that this has been a recurring problem, only that there have been recurring complaints. And that’s not to be – that’s not unexpected in a detention center setting that there would be complaints.” (R. p. 408). The trial judge did not abuse his discretion by ruling that the complaints of other inmates were irrelevant because they were just allegations that had not been substantiated. (R. pp. 408-409). The judge gave proper consideration to the evidence proffered and the appellant’s argument in the evidentiary hearing and excluded what they wanted to proffer, and it clearly does not amount to an abuse of discretion.

In addition, the appellant alleges that the Court prevented him from entering evidence that the “failure to give Tony medication prescribed by a physician was grossly negligent.” (Appellant’s Initial Brief, p. 6.) The appellant alleges that “[s]ince the policy requiring physician clearance was violated, a jury should have also been able to decide whether refusal to provide prescribed medication to a person with a broken neck, broken back, and shattered teeth constituted gross negligence.” (Appellant’s Initial Brief, p. 7.)

The appellant erroneously argues that the physician clearance policy was violated. There was absolutely no finding on that matter. The only finding is that the defendants were not grossly negligent. The appellant repeatedly questioned

witnesses concerning alleged policies and procedures trying to imply violations of internal policies and procedures; however, as Gene Powell, Katie Gilmore, and Lonnie Smith testified, the policies referenced were admittedly not followed anymore because they were old policies prior to Southern Health Partners taking over the medical care at the detention center. (R. p. 198-199, 238-239, 243, 376-382). The appellant was not able to receive the narcotic pain medication he was prescribed while he was detained in the detention center due to a policy of Southern Health Partners which prohibited narcotics. (R. pp. 231-232, 293-298, 386-387, 441-442).

There is no evidence, testimony, or law that imputes a duty on behalf of the detention center to dispense narcotic medication in violation of that policy. Therefore, any argument the appellant alleges that there is such a duty and the failure to dispense narcotics to him while a prisoner in the county detention center was gross negligence is flawed.

Furthermore, the Court did not abuse it's discretion when clarifying for the jury that "the narcotic that the defendant was prescribed in Greenville as medication. That's not medication. Medication is penicillin if you have pneumonia, it is insulin if you have diabetes, it is a chemical that treats and cures a disease. The narcotic medicine that was prescribed to the defendant, no jail in South Carolina, no prison in South Carolina would permit that medication through the door for a very, very,

very good reason.” (R. p. 398). The appellant was not prevented from receiving life-saving medication such as insulin or blood thinners, he was prohibited from receiving narcotic pain medication, and was given a non-narcotic alternative in its place. (R. pp. 231-232, 293-298, 386-387, 441-442.)

The appellant attempted to confuse the jury on the matter and upon information and belief, the Court did not abuse its discretion by clarifying it.

C. STATEMENTS BY THE COURT

The appellant alleges that “the Court made statements in the presence of the jury that skewed the jury and deprived Tony of his right to a fair trial.” (Appellant’s Initial Brief, p. 7.) Specifically, appellant alleges that the Court made statements regarding the repeated questioning about Young being admitted to the detention center without being sent back to an outside physician, the alleged spoliation of video footage, and that the Court sustained an objection when appellant’s counsel was questioning Cpt. Middleton on the issue of physician clearance.

The appellant was able to fully develop their theory of the case and did so with repeated questions on every alleged issue. The Court did not prevent the appellant from exploring any angle of his case. In response, the defense presented evidence to contradict the plaintiff’s position and the jury found that the appellant simply did not meet his burden of proof.

Furthermore, the appellant alleges that the Court made comments that informed the jury that someone called the Highway Patrol to get the appellant from the hospital and transport him to the detention center. The appellant now appears to dispute this and attempts to renew his allegations that he was discharged prematurely from the hospital and that the respondents in some way had something to do with his transport from the hospital. However, the appellant stated during the Motions in Limine hearing that “Judge, Mr. Young initially had the belief there was some back and forth between an officer and the medical providers that resulted in him being discharged early, but we were unable to really shore that up in discovery. And so we have no intention of arguing that --- the Greenwood County Sheriff’s Office or any other officer, you know, persuaded the medical staff to release him earlier than they should have. So I don’t think we’re going to go there.” (R. pp. 106-107). In addition, the appellant himself stated in his opening argument that “An officer, I believe, with the Highway Patrol takes him to the detention center...” (R. p. 133). Therefore, the Court’s comments regarding the highway patrol were not new information to the jury. The first mention of any involvement by the highway patrol was from the appellant himself during his opening argument.

The only evidence provided establishes that the Highway Patrol initiated the charges against the appellant and transported him to the Greenwood County Detention Center. (R. pp. 452-465, 555-556, 564-565). In fact, the appellant himself

testified that he knew he was charged by the highway patrolman and he does not dispute that a highway patrolman picked him up from the hospital and took him to the detention center. (R. pp. 452-465, 555-556, 564-565). Therefore, there is absolutely no basis or grounds for the appellant to now renew his allegations concerning the timing of his discharge and his transportation to the hospital. This was not an issue in the trial and it is not an issue to be decided on appeal.

The trial judge acted properly and well within the bounds of his discretion at all times during the trial proceedings. The trial judge specifically instructed the jury at the beginning of the trial to “Please understand that you’re the sole judges of the facts, so if at any time I make any comments concerning the facts, you have to disregard any comment that I make. You’ll determine the facts from the testimony and the other evidence that’s introduced.” (R. pp. 119-120). In addition, the trial judge again instructed the jury during the Charge on the Law at the end of the trial:

Now, as has been said several times, ladies and gentlemen, you are the sole and exclusive judges of the facts in this case. Understand that a trial judge is not permitted to comment on or make any statement about the facts in any case tried by a jury. Since you’re the sole judges of the facts, please don’t think by anything that I’ve said during the progress of this trial in ruling upon the admissibility of evidence or otherwise that I have any opinion about the facts in this case. Ladies and gentlemen, the law does not permit me to have any opinion about the facts. This is solely for you to determine.

(R. pp. 688-689).

The trial judge ruled on objections and evidence issues and the jury was specifically instructed twice that any alleged comments on the facts should be disregarded. The appellant seems to be grasping at straws to reconcile the fact that the jury found against him. An appeal is not a venue to re-try his case.

II. The Circuit Judge did not abuse his discretion in denying the Appellant's Motion for a New Trial Absolute.

The grant or denial of new trial motions rests within the discretion of the circuit court, and its decision will not be disturbed on appeal unless its findings are wholly unsupported by the evidence or the conclusions reached are controlled by error of law. *Umhoefer v. Bollinger*, 298 S.C. 221, 224, 379 S.E.2d 296, 297 (Ct. App. 1989); *see also Boozer v. Boozer*, 300 S.C. 282, 283, 387 S.E.2d 674, 675 (Ct. App. 1988) (stating the court of appeals has no power to review circuit court's ruling unless it rests on basis of fact wholly unsupported by evidence or is controlled by error of law). "In deciding whether to assess error to a court's denial of a motion for a new trial, we must consider the testimony and reasonable inferences to be drawn therefrom in the light most favorable to the nonmoving party." *Umhoefer*, 298 S.C. at 224, 379 S.E.2d at 297.

The findings of the jury and the trial judge are completely supported by the evidence presented in trial, and the appellant has failed to identify any error of law, much less one sufficient to overturn the jury verdict and the trial judge's order denying the appellant's post-trial motions.

III. The Circuit Judge did not abuse his discretion in denying Appellant's Motion for a New Trial.

The standard of review when adjudicating the denial of a motion for JNOV is constrained by viewing the evidence and all reasonable inferences in the light most favorable to the nonmoving party. *Welch v. Epstein*, 342 S.C. 279, 299–300, 536 S.E.2d 408, 418–19 (Ct. App. 2000). Additionally, the trial court must deny a JNOV motion when the evidence yields more than one inference or its inference is in doubt. *Id.* An appellate court will reverse the trial court only when no evidence supports the ruling below. *Id.* When considering a JNOV motion, neither the trial court nor the appellate court has the authority to decide credibility issues or to resolve conflicts in the testimony or evidence. *Id.* A motion for JNOV may be granted only if no reasonable jury could have reached the challenged verdict. *Id.* The jury's verdict should be affirmed if any evidence exists that sustains the factual findings implicit in its decision. *Id.*

During the three day trial both parties presented extensive conflicting evidence to the jury in the form of witness testimony and documentation thereby giving the jury more than sufficient grounds to find for the defendant. The appellant's assertion that he "presented uncontroverted evidence" is simply without merit. (Appellant's Initial Brief, p. 3.)

The appellant's argument that the jury "heard ample and uncontested evidence that the respondent violated its own policies and procedures," is simply not true.

(Appellant’s Initial Brief, p. 12.) In addition, even if it were true, which it is not, as the judge instructed, a violation of internal policies or procedures “MAY be considered by you as evidence of gross negligence and MAY be considered in connection with all other facts and circumstances surrounding the case in determining whether the defendant was grossly negligent.” (R. p. 692, emphasis added; *See also, Caldwell v. K-Mart Corp.*, 306 S.C. 27, 31-32, 410 S.E.2d 21, 24 (Ct. App. 1991).) Although any alleged policy or procedure violations may have been considered by the jury, the jury had the duty to weigh the evidence and they found that the appellant did not meet his burden of proof. Furthermore, as discussed previously, the policies and procedures appellant tried to imply the defendant violated were no longer applicable and were old policies that were replaced when Southern Health Partners was contracted to provide medical care to the prisoners. (R. pp. 198-199, 238-239, 243, 376-382).

In addition, appellant’s allegations that “[t]he jury heard substantial uncontested evidence that the Sheriff’s Office: 1. failed to get physician’s clearance as required by the Minimum Standards, 2. refused to even contact the physician on call at the time, 3. filled out documents incorrectly, 4. withheld prescribed medication, and 5. failed to provide documentation of physician clearance as required by General Order 2.5,” are not true.

1. Physician Clearance.

Again, this is not the proper venue to re-try the case, but by way of example, Sharon Middleton explicitly stated “He had been cleared to come to jail,” ... and “[t]here was no reason to think he had not been cleared.” (R. pp. 454-456; *See also*, R. pp. 452-465). In addition, Katie Gilmore, Beverly Weaver, and Lonnie Smith also testified that the appellant had been cleared by a physician. (R. pp. 250, 358, 369.) Thus, appellant’s allegations were clearly contested.

2. Refused to contact an on-call physician as required by Minimum Standards.

Sharon Middleton, Katie Gilmore, Beverly Weaver, and Lonnie Smith spoke to this issue and explained that Mr. Young had just been released from the hospital and cleared. Sherry Bouknight evaluated Mr. Young while he was in booking (R. pp. 292, 337, 448, 452-465). Appellant has failed to prove that it was necessary or required to call an on-call physician, and respondents set forth evidence demonstrating that it was not necessary nor required to call a physician.

3. Filled out documents incorrectly.

Lonnie Smith testified that a document filled out by the Highway Patrol concerning whether a person appeared injured or had any observable medical problems that was answered “No” was inaccurate. (R. pp. 393-394). Lonnie Smith further testified that the respondents had no part in filling out this form. (R. pp. 393-394). In addition, the Highway Patrol is not a named defendant in this case. Again, disputing appellant’s allegations.

4. Withheld prescribed medication.

Numerous witnesses including Rodney Gresham, Katie Gilmore, Nurse Bouknight, Lonnie Smith, and even Tony Young testified that narcotic medication is prohibited in the detention center; therefore, the appellant was not allowed to receive the Lortab the doctor prescribed him at the hospital, so he was provided an over the counter alternative. (R. pp. 162, 231-232, 271, 293-298, 370, 379-380, 386-387, 562.) Thereby disputing appellant's claims that the respondents unlawfully withheld appellant's prescribed medication.

5. Failed to provide documentation of physician clearance as required by General Order 2.5.

In addition to other witnesses, Katie Gilmore testified in reference to General Order 2.5, and explained that after a doctor discharged an inmate from the hospital he was cleared by a physician. (R. pp. 232-236, *See also*, R. pp. 250, 358, 369). There is absolutely no credible evidence to suggest that appellant's discharge papers were not sufficient clearance by a physician.

In light of the above, it is evident that the appellant's statement that the "jury heard substantial uncontested evidence" on the above issues is simply just not true. (Appellant's Initial Brief, p. 17.)

IV. The Circuit Judge did not abuse his discretion in denying Appellant's Motion for New Trial based on the Thirteenth Juror Doctrine.

South Carolina's thirteenth juror doctrine is well established as the standard for granting a new trial in state law actions. *See Folkens v. Hunt*, 300 S.C. 251, 387 S.E.2d 265 (1990); *Sorin Equipment Co., Inc. v. The Firm, Inc.*, 323 S.C. 359, 474 S.E.2d 819 (Ct. App. 1996). South Carolina's thirteenth juror doctrine is so named because it entitles the trial judge to sit, in essence, as the thirteenth juror when he finds "the evidence does not justify the verdict," and then to grant a new trial based solely "upon the facts." *Id.* at 254, 387 S.E.2d at 267 (citing *South Carolina State Highway Dep't v. Townsend*, 265 S.C. 253, 217 S.E.2d 778 (1975)). As the "thirteenth juror," the trial judge can hang the jury by refusing to agree to the jury's otherwise unanimous verdict. *Id.* As this Court explained in *Folkens*,

The effect is the same as if the jury failed to reach a verdict When a jury fails to reach a verdict, a new trial is ordered. Neither judge nor the jury is required to give reasons for this outcome. Similarly, because the result of the 'thirteenth juror' vote by the judge is a new trial rather than an adjustment to the verdict, no purpose would be served by requiring the trial judge to make factual findings.

Id.

Upon review, a trial judge's order granting or denying a new trial will be upheld unless the order is "wholly unsupported by the evidence, or the conclusion reached was controlled by an error of law." *Folkens*, 300 S.C. at 254-55, 387 S.E.2d at 267 (citing *South Carolina State Highway Dep't v. Clarkson*, 267 S.C. 121, 226 S.E.2d 696 (1976)). Upon information and belief, this Court's "review is limited to

consideration of whether evidence exists to support the trial court's order." *Id.* at 255, 387 S.E.2d at 267. As long as there is conflicting evidence, the South Carolina Supreme Court has held that the trial judge's grant of a new trial will not be disturbed. *Id.*

In the present case, a lot of evidence was submitted to establish that the detention center and its staff did not breach their duty to provide the appellant with reasonable access to medical care. Beverly Weaver, Jail Administrator Lonnie Smith, Captain Sharon Middleton, and Sergeant Michael Holtzclaw testified that the appellant's neck brace was taken off during booking so that he could be photographed and so it could be searched for contraband. (R. pp. 355-356, 368-369, 382, 425-426, 429, 457-462, 597-599). In addition, Rodney Gresham, Katie Gilmore, Nurse Bouknight, Lonnie Smith, and even Tony Young testified that narcotic medication is prohibited in the detention center; therefore, the appellant was not allowed to receive the Lortab the doctor prescribed him at the hospital, but he was given access to an over the counter alternative. (R. pp. 162, 231-232, 271, 293-298, 370, 379-380, 386-387, 562).

Upon information and belief, the appellant changed his theory and then alleged issues concerning the frequency he was given over the counter pain medication, but Nurse Bouknight testified that the medication administration records clearly show that Young was started on ibuprofen or advil instead of Lortab for the

six days in issue. (Transcript, p. 210-211, 293-302). In addition, Nurse Bouknight testified about the numerous medical encounters the appellant had while detained at the Greenwood County Detention Center including those during the first six days.

Given the testimony summarized above, the jury clearly had sufficient evidence on which to support a finding for the defendants; therefore, the trial judge's order denying the appellant's post-trial motions should be upheld and affirmed and the appellant's appeal should be dismissed.

V. The Circuit Judge did not abuse his discretion in allowing the jury to hear deposition testimony of Deborah Knowles.

The appellant alleges that the trial judge erred in allowing the jury to hear deposition testimony of Deborah Knowles because she was on medication at the time of the deposition. (Appellant's Initial Brief, p. 18-19.) Deborah Knowles testified that the appellant had his neck brace on at the bond hearing, which contradicts the appellant's allegations. (R. pp. 520-521). Appellant's counsel was provided the opportunity to cross examine Knowles in the deposition and dispute anything she testified to. The appellant however is not allowed to determine issues of credibility. The jury is instructed to weigh the credibility of the witnesses and that is their duty, not that of the appellant. Just because she said something to contradict the appellant's story does not make her testimony or the presentation of it to the jury improper. Upon information and belief, there are no allegations concerning the legality of the jury deliberations; therefore, appellant's allegations are without merit

and should be dismissed.

VI. The Circuit Judge correctly instructed the jury on comparative negligence.

"An appellate court will not reverse the trial court's decision regarding jury instructions unless the trial court committed an abuse of discretion." *Cole v. Raut*, 378 S.C. 398, 404, 663 S.E.2d 30, 33 (2008). "An abuse of discretion occurs when the trial court's ruling is based on an error of law or is not supported by the evidence." *Id.*

An erroneous jury instruction will not result in reversal unless it causes prejudice to the appealing party. *Id.* at 405, 663 S.E.2d at 33; *see also Clark v. Cantrell*, 339 S.C. 369, 390, 529 S.E.2d 528, 539 (2000) ("When instructing the jury, the trial court is required to charge only principles of law that apply to the issues raised in the pleadings and developed by the evidence in support of those issues."). "A jury charge consisting of irrelevant and inapplicable principles may confuse the jury and constitutes reversible error where the jury's confusion affects the outcome of the trial." *Cole*, 378 S.C. at 404, 663 S.E.2d at 33.

The trial judge did not abuse his discretion by instructing the jury on comparative negligence. Furthermore, even if there was an error, it in no way prejudiced the plaintiff or had any impact on the verdict. The verdict form was in a flowchart format where if the jury voted Yes on the first question they would then move to the second question, but if they voted No on the first question all

deliberations would stop at that point and that was the verdict. (R. pp. 695-697, 702)

The first question on the verdict form read as follows: “Was the defendant grossly negligent?” and the jury answered “No” therefore all deliberations stopped. (R. pp. 695-697, 702). Deliberations ended at that point and the jury did not even go on to consider proximate cause or comparative fault, therefore, any alleged error in the comparative fault instruction clearly did not cause any prejudice and was harmless. *Id.* Therefore, the jury’s verdict should be upheld and the Appellant’s appeal should be dismissed as a matter of law.

CONCLUSION

In view of the arguments and authorities set forth above and in The Honorable Judge Addy’s Order dated March 27, 2019, the respondents respectfully submit that Young’s appeal is without merit and should be denied and the trial court’s Order should be affirmed and the jury verdict upheld.

Respectfully submitted,

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July 28, 2020
Greenville, South Carolina

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENWOOD COUNTY
Court of Common Pleas

The Honorable Frank Addy, Circuit Court Judge

Appellate Case No. 2019-000637

RECEIVED

Aug 17 2020

SC Court of Appeals

Tony Young.....Appellant,

v.

Greenwood County Detention Center and the Greenwood County Sheriff's Office, Defendants,

Of Which The Greenwood County Sheriff's Office is.....Respondent.

FINAL REPLY BRIEF OF APPELLANT

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TABLE OF CONTENTS

Table of Authorities.....	ii
REPLY.....	1
<i>Voir Dire</i>	1
Introduction of Evidence	2
Statements by the Court	4
New Trial Absolute	5
Physician Clearance	6
Thirteenth Juror Doctrine	8
Comparative Negligence	9
Conclusion	9

TABLE OF AUTHORITIES

CASES

<i>Folkens v. Hunt</i> , 300 S.C. 251, 387 S.E.2d 265 (1990).....	8
<i>Gantt v. Columbia Coca-Cola Bottling Co.</i> , 193 SC 51, 7 SE (2d) 641 (1940).....	2
<i>Norton v. Norfolk Southern Ry. Co.</i> , 567 SE 2d 851 (2002)	8
<i>Sorin Equipment Co., Inc. v. The Firm, Inc.</i> , 323 S.C. 359, 474 S.E.2d 819 (Ct.App.1996).....	8
<i>South Carolina State Highway Dep't v. Townsend</i> , 265 S.C. 253, 217 S.E.2d 778 (1975).....	8
<i>Steinke v. South Carolina Dep't of Labor, Licensing and Regulation</i> , 336 S.C. 373, 520 S.E.2d 142 (1999).....	4,6
<i>Turner v. Wilson</i> , 86 S.E.2d 876 (1955).....	2
<i>Umhoefer v. Bollinger</i> , 298 S.C. 221 (Ct. App. 1989)	5

OTHER AUTHORITIES

Rule 609, <i>SCRE</i>	2
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REPLY

The Sheriff's Office's brief is factually inaccurate in a number of important ways. For instance, on page 5 of its brief, the Sheriff's Office says that Tony's neck brace (which was given to him by medical providers to stabilize fractures in his neck) was only taken momentarily to take pictures. 1) That shouldn't have been done at all, 2) the brace wasn't given back to him after the picture was taken, and, most importantly, 3) the respondent acknowledges the jury heard evidence that a guard – not a physician – took a neck brace away from a man with a broken neck. Deprivation of a neck brace from a person with a broken neck for *any* amount of time is gross negligence, but more importantly, the jury heard that evidence.

On the same page, the Sheriff's Office acknowledges that the jury heard evidence that the Sheriff's Office has a policy that denies inmates access to medication prescribed by a physician. In the case the jury heard, Tony was prescribed narcotic pain medication because he had multiple fractures in his neck, arm, and other parts of his body when he was admitted to the detention center in violation of the General Orders that require an inmate to be cleared for detention by a physician before admission. Not only did the Sheriff's Office ignore the policy that requires physician clearance, it then denied Tony access to medication a doctor determined was necessary. Most importantly, for the purposes of this appeal, the Sheriff's Office does not contest the fact that the jury heard all this.

Voir Dire

Tony has set out reasons why the Court irreversibly tainted the jury pool during *voir dire*. Perhaps most telling is the fact that the Court acknowledged its error to the parties. After the Court disclosed details related to Tony's arrest, the Court told the parties that if it had seen the plaintiff's *voir dire* before the process began, the Court would have conducted *voir dire* differently. As set

out in Tony's brief, at that point the damage was done, and there was no way to make any objection because the trial had not yet begun.

The Sheriff's Office cites Rule 609 SCRE and admits in the citation that in order for the Court to allow disclosure of an unrelated crime to a jury, it must determine whether the probative value of the disclosure outweighs the prejudicial effect of the disclosure. At trial, no determination was made at all. Obviously, there is extreme prejudice that comes with disclosure of a crime, especially for the party that bears the burden of proof. More importantly, though, there is no probative value in Tony's case at all. Disclosure of Tony's DUI is in no way related to the Sheriff's Office's repeated policy violations related to medical treatment, of which the jury heard uncontroverted evidence.

The Sheriff's Office then makes the argument that the Court's error was justified because the conviction was admissible for impeachment purposes. Obviously, Tony's DUI conviction is in no way related to honesty or the claims for gross negligence against the Sheriff's Office. This is underscored by the Court's acknowledgement that the better course of action was to avoid dissemination of information about Tony's DUI. This information had no probative value, and was unfairly prejudicial in obvious ways.

Introduction of Evidence

On page 10 of its brief, the respondent attempts to distinguish *Turner v. Wilson*, 86 S.E.2d 867, basically on the grounds that *Turner* is not a Tort Claims Act case. First, that distinction is immaterial to the issue for which it is cited and second, the fact that Tony's case requires a showing of gross negligence means the suppression of the evidence at issue was even more prejudicial in this case than it was in *Wilson*. The respondent tried to distinguish *Gantt v. Columbia Coca-Cola Bottling Co.*, 193 S.C. 51 (1940) in a similar way, but its argument supports Tony's appeal. The

fact that Tony was required to show gross negligence is even more reason why the Court should have allowed the jury to hear the proffered evidence.

It is hard to imagine how the Sheriff's Office can seriously contend that the "appellant erroneously argues that the physician clearance policy was violated." The policy at issue was violated no matter how one views it. The unambiguous policy requires that a physician clear a visibly injured inmate for admission. That did not happen. Everyone – defense witnesses and plaintiff's witnesses alike – testified that Tony was visibly injured.

The respondent then makes an attempt either to blame Southern Health Partners for its policy violations or pretend the uncontested violations were not actually violations. Plainly and simply, the policies and procedures presented at trial were violated by the Sheriff's Office repeatedly, and everyone at trial agreed that they were violated. The admitted violations of policy were bad enough, but the Court's express approval of the policy violations improperly weighed them for the jury:

We've been down this road before, okay? We've been down the road before. I think you're pumping a dry well here. He was released from the hospital in Greenville. It's what I said [in a side bar away from the jury] earlier this morning. He cannot be boomeranged back between doctors. We need to move on from this of questioning and focus on what your complaint is, and that is the six days without the neck brace, okay? So go (R. p. 376).

The Sheriff's Office urges this Court to accept that prejudicial statement and this one, too:

[Tony's prescribed medication] is not medication. Medication is penicillin if you have pneumonia, it is insulin if you have diabetes, it is a chemical that treats and cures a disease. The narcotic medicine that was prescribed to [Tony], no jail in South Carolina, no prison in South Carolina would permit that medication through the door for a very, very, very good reason. (Emphasis added.)

If the respondent wanted to challenge whether the medicine Tony's doctor prescribed was actually medicine, it could have done that by having a doctor give expert testimony. The respondent chose not to do that. It was inappropriate for the Court to stop trial and offer what

amounts to expert testimony in the presence of the jury. This effectively robbed the jury of any chance it had to objectively weigh the evidence. The respondent has stated that “the Court did not abuse it’s discretion when clarifying for the jury,” but the Court’s comments went far beyond mere clarification, and robbed Tony of his Constitutional right to a fair trial.

This was not the only instance in which the Court intervened to weigh the evidence for the jury. When Tony’s counsel asked Lonnie Smith whether he had made any effort to gather footage of Tony in the booking area pursuant to a subpoena that Tony’s counsel had sent, the Court interrupted the examination of the witness. Without defense counsel making an objection, the Court stated, “All right. Sustained.” After defense counsel thanked the Court, the Court continued, “[t]his suit was filed years later, okay? The tapes get written over. Let’s focus on what is truly an issue here and stop chasing rabbits, please, okay?” (R. p. 384). The Court also commented on Sheriff’s Office’s failure to provide subpoenaed footage during Sharon Middleton’s testimony. The Court essentially suggested, in the presence of the jury, that Tony’s “years” of delay in filing excused the Sheriff’s Office’s failure to produce the footage. (R. pp. 437-440). The Court’s statements in the presence of the jury deprived the jury of the ability to weigh the importance of the Sheriff’s Office’s spoliation of subpoenaed evidence that would show Tony at the time of booking and directly address one of the primary issues in the case. By commenting on the evidence and strongly implying that the Sheriff’s Office’s failure to bring important and subpoenaed evidence to trial was meaningless, the Court deprived Tony of his right to a fair trial.

Statements by the Court

The Sheriff’s Office did not have any physician clear Tony as required, and never called an on-duty physician. That is definitive evidence of failure to exercise even slight care. See *Steinke v. SC Dept. of Labor, Licensing*, 520 S.E.2d 142 (1999). The Court interfered with testimony about

the violations and gross negligence, though. On page 13 of its brief, the respondent refers to a sustained objection, but the Court's commentary was much more. When Tony's counsel asked Middleton whether anyone from the Sheriff's Office contacted the on-call physician when Tony arrived at the detention center as required, Middleton began to answer the question, stating, "I don't have any evidence that a doctor---," before counsel for the Sheriff's Office objected. The Court then stated, in the presence of the jury, "[l]et's move along, please. I think we've covered this ground several, several times. So ask her a different question involving a different issue, please." (R. p. 450).

On page 14 of its brief, the respondent acknowledges that the Court informed the jury that a highway patrolman picked up Tony from the hospital, a fact that is found nowhere in any evidence or testimony. Importantly, documents in evidence show that Tony was "discharged to home" when he left the hospital and that he left with a "friend." Tony may very well have left with a highway patrolman before the Sheriff's Office violated multiple policies and procedures at the detention center, but that is not in any evidence considered by the jury.

New Trial Absolute

The Sheriff's Office's statement that "[t]he findings of the jury and the trial judge are completely supported by the evidence" might be humorous if it were not so seriously concerning. The respondent rightly pointed out that a new trial is appropriate where a jury's findings are "wholly unsupported by the evidence or the conclusion reached are controlled by error of law." *Umhoefer v. Bollinger*, 298 S.C. 221 (Ct. App. 1989). Unfortunately, both are true in this case. For the reasons stated above, the Court made at least one error of law when it refused to allow Tony to present evidence of prior gross negligence to the jury.

Perhaps more concerning, though, is the fact that the outcome was wholly unsupported by the evidence. Without the Court's intervention and exclusion of relevant and material evidence, the evidence of gross negligence was overwhelming, and the evidence related to the Sheriff's Office refusal to even call the on-call physician before admission (failure to exercise even slight care) literally mirrors the language used by the Court in *Steinke v. SC Dept. of Labor, Licensing, 520 S.E.2d 142* (1999) when it described what gross negligence is. The jury's findings in the presence of so much uncontroverted evidence (that Tony was visibly injured, that the Sheriff's office violated the policy requiring physician clearance, that Tony was denied prescribed medication, etc.) can only be the result of the Court's commentary on the evidence (that Tony's medication was not medication, that policy violations do not matter, etc.).

The respondent's statement on page 18 of its brief that Tony did not "present[...] uncontroverted evidence" of gross negligence is confusing. The Sheriff's Office is fully aware that everyone that testified on the issue acknowledged that the Sheriff's Office violated the policy that requires physician clearance and refused to exercise even slight care by calling an on-call physician. Likewise, the Sheriff's Office is fully aware that it deprived Tony of medicine prescribed by a physician, even though the Court told the jury that Tony's medicine was not actually medicine. The Sheriff's Office then goes on to say that statements related to the uncontroverted evidence are "not true" on page 19, without offering any support or documentation. Indeed, no documentation can be offered because the trial transcript clearly shows that the statements are true.

Physician Clearance

The Sheriff's Office's refusal to comply with policy was so blatant at trial that it shocks the conscious. The Sheriff's Office cites to its former employee's testimony that "[Tony] had been

cleared to come to jail.” The documents submitted at trial clearly show – and the respondent agrees – that the Sheriff’s Office never obtained required physician clearance before it admitted Tony, plain and simple. The policy (also in evidence) is unambiguous about the requirement, and a former employee’s statement that something happened that is documented to have never happened is a reach to say the least. Not only did the Sheriff’s office violate the policy, it never even attempted to follow the policy because it never even called the on-call physician.

The respondent appears to make the argument that Tony leaving the hospital fulfils General Order 2.5, which requires that a visibly injured inmate who arrives at the detention center by cleared by a physician. This argument is beyond comprehension since none of the employees of the hospital work at the detention center.

The jury heard testimony from Katie Gilmore, an employee of the Sheriff’s Office, that the Minimum Standards in South Carolina require detention centers to have a physician examine an inmate who arrives at the detention center “severely injured” (R. p. 220). The witness went on to differentiate between a nurse and a “doctor” or “an MD” (R. p. 220). Gilmore further testified that an inmate must “be in good physical health” in order to be admitted to a detention center (R. p. 229). If an inmate is visibly injured upon arrival, then an officer is required to refuse the inmate. The “officer present will refuse the subject until the committing officer takes the subject to the hospital” (R. p. 230). When asked if there were any exceptions to these Minimum Standards, the witness could not offer any (R. p. 248). It is unclear whether the respondent is arguing that someone at the hospital cleared Tony for detention while at the same time discharging him to home and prescribing medication the detention would refuse to give him, but to the extent the respondent does make that argument, the flaws are obvious.

Thirteenth Juror Doctrine.

“South Carolina’s thirteenth juror doctrine is well established as the standard for granting a new trial in state law actions.” *Norton v. Norfolk Southern Ry. Co.*, 567 S.E. 2d 851 (S.C. 2002). See also *Folkens v. Hunt*, 300 S.C. 251, 387 S.E.2d 265 (1990); *Sorin Equipment Co., Inc. v. The Firm, Inc.*, 323 S.C. 359, 474 S.E.2d 819 (Ct.App.1996). The thirteenth juror doctrine allows the trial judge to sit as the thirteenth juror when he finds “the evidence does not justify the verdict,” and then to grant a new trial based solely “upon the facts.” *Id.* at 254, 387 S.E.2d at 267 (citing *South Carolina State Highway Dep’t v. Townsend*, 265 S.C. 253, 217 S.E.2d 778 (1975)).

On page 22 of its brief, the Sheriff’s Office argues “a lot of evidence was submitted to establish that the detention center and its staff did not breach their duty to provide the appellant with reasonable access to medical care.” But what the evidence showed is that the Sheriff’s Office refused to give Tony medicine that a doctor determined was necessary. One cannot provide necessary medical care and at the same time refuse necessary medical care. No reasonable juror could hear evidence of an unapologetic refusal to obtain physician clearance, refusal to even call a doctor and refusal to administer necessary medicine as “reasonable” medical care. The only conclusion a reasonable and untainted juror could make is that the Sheriff’s Office was grossly negligent.

The respondent seems to indicate that Tony changed his theory of liability at some point because Tony presented evidence at trial that even the inadequate (non-prescription) and wrong medication given to Tony instead of the medicine prescribed by a physician was given sporadically. Naturally, it is bad enough – and gross negligence – to refuse necessary medicine in the first place. It is worse that the wrong medicine is not given regularly to someone with multiple bone fractures.

Comparative Negligence

How can someone who is incarcerated negligently cause the Sheriff's Office to violate its own policies, deprive him of his neck brace, and refuse to give him his medicine? The Sheriff's Office bore the burden of proving at trial something that was impossible to occur. No such evidence could have existed or did exist, and it was error to charge the jury on comparative negligence. And even assuming it was proper generally to give an instruction, it was reversible error to omit from the instruction that the Defendant bore the burden of proof on the affirmative defense.

CONCLUSION

The appellant respectfully requests that the Court grant a new trial. In the alternative, the appellant requests that the Court remand this action with instructions for the trial court to award the appellant judgment as a matter of law and schedule a damages hearing.

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August 14, 2020

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENWOOD COUNTY
Court of Common Pleas

The Honorable Frank Addy, Circuit Court Judge

Appellate Case No. 2019-000637

RECEIVED

Aug 17 2020

SC Court of Appeals

Tony Young,.....Appellant,

v.

Greenwood County Detention Center and the Greenwood County Sheriff's Office, Defendants,

Of Which The Greenwood County Sheriff's Office is.....Respondent

CERTIFICATE OF COUNSEL

The undersigned certified that this Final Reply Brief complies with Rule 211(b), SCACR.

Respectfully submitted,

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**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

Tony Young, Appellant,

v.

Greenwood County Detention Center and the Greenwood
County Sheriff's Office, Defendants,

Of Which The Greenwood County Sheriff's Office is
Respondent.

Appellate Case No. 2019-000637

Appeal From Greenwood County
Frank R. Addy, Jr., Circuit Court Judge

Unpublished Opinion No. 2022-UP-170
Submitted March 1, 2022 – Filed April 6, 2022

AFFIRMED

Joshua Thomas Hawkins and Helena LeeAnn Jedziniak,
both of Hawkins & Jedziniak, LLC, of Greenville, and
Kyle Jason White, of White, Davis & White Law Firm,
PA, of Anderson, for Appellant.

Russell W. Harter, Jr., of Chapman, Harter & Harter,
P.A., of Greenville, for Respondent.

PER CURIAM: This case involves alleged violations of the Greenwood County Sheriff's Office's policies and procedures in its medical screening of Tony Young during his booking at the Greenwood County Detention Center. Young appeals a verdict finding the Detention Center and the Sheriff's Office (Respondents) were not grossly negligent, arguing (1) he was deprived of his constitutional right to a fair trial; (2) the trial court erred in denying his motion for a new trial absolute; (3) the trial court erred in denying his motion for new trial under the thirteenth juror doctrine; (4) the trial court erred in allowing the jury to hear his ex-wife's deposition testimony; and (5) the trial court erred in instructing the jury on comparative negligence. We affirm.

1. Young argues he was deprived of his constitutional right to a fair trial for several reasons. We disagree. First, we find Young waived any objection to the admissibility of his conviction for felony DUI because he stipulated that he pled guilty to felony DUI and he also testified he was convicted of felony DUI as a result of this accident. *See Kirkland v. Allcraft Steel Co.*, 329 S.C. 389, 392, 496 S.E.2d 624, 626 (1998) (defining a stipulation as "an agreement, admission[,] or concession made in judicial proceedings by the parties thereto or their attorneys" that are binding upon those who make them); *Holroyd v. Requa*, 361 S.C. 43, 59-60, 603 S.E.2d 417, 425-26 (Ct. App. 2004) (finding the evidence that Requa complained about in the appeal was also elicited from his own testimony without objection; thus, failure to object to the introduction of evidence at the time the evidence was offered constituted a waiver of the right to have the issue considered on appeal); *Grain Dealers Mut. Ins. Co. v. Julian*, 247 S.C. 89, 95, 145 S.E.2d 685, 687-88 (1965) (holding that where a witness who had testified was cross-examined without reserving the objection previously made, "exception to the testimony is thereby rendered untenable, and the right to challenge the ruling thereabout . . . was thereby waived"); *Gary v. Jordan*, 236 S.C. 144, 157, 113 S.E.2d 730, 737 (1960) (finding the right to challenge a ruling was waived when on re-direct examination the defendant was questioned and testified on the same subject, without reservation). Second, we find the court properly excluded the proffered testimony about a complaint as being irrelevant because Young presented no substantiated evidence that other detainees had their neck brace, similar medical equipment, or medicine kept from them by Respondents. *See* Rule 401, SCRE ("'Relevant evidence' means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence."); Rule 403, SCRE ("Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues,

or misleading the jury"); *cf. Whaley v. CSX Transp., Inc.*, 362 S.C. 456, 483, 609 S.E.2d 286, 300 (2005) ("Because evidence of other accidents may be highly prejudicial, '[a] plaintiff must present a factual foundation for the court to determine that the other accidents were substantially similar to the accident at issue.'" (quoting *Buckman v. Bombardier Corp.*, 893 F.Supp. 547, 552 (E.D.N.C. 1995))); *Brewer v. Morris*, 269 S.C. 607, 611, 239 S.E.2d 318, 319-20 (1977) (finding the testimony of two witnesses was properly excluded when they attempted to testify from their personal experience as to the effects of a chemical on the finish of an automobile; however, "a proper foundation was lacking in that it had not been established that the automobiles they were familiar with had been sprayed with the chemical in question"). Third, because Young presented evidence that a doctor was not called after he arrived at the Detention Center, Young presented evidence that he requested the video and it was not available, and Young testified law enforcement picked him up from the hospital and took him to the Detention Center, we find the court's comments in line with this same testimony did not deprive Young of his right to a fair trial. *See State v. Reyes*, 432 S.C. 394, 403, 853 S.E.2d 334, 339 (2020) ("A common function of the trial court is to make rulings on evidence, and typically there is no error where the trial judge does so in a neutral manner in the jury's presence."). And, fourth, we find the court was within its discretion to sustain Respondents' objection to Young's closing statement if it deemed it improper. *See Howle v. PYA/Monarch, Inc.*, 288 S.C. 586, 599, 344 S.E.2d 157, 164 (Ct. App. 1986) ("It has long been settled that closing arguments and objections thereto are left largely to the sound discretion of the trial judge 'who is on the scene and in much better position than an appellate court to judge as to what is improper argument under the circumstances.'" (quoting *Lesley v. Am. Sec. Ins. Co.*, 261 S.C. 178, 185, 199 S.E.2d 82, 86 (1973))). Further, although the court sustained Respondents' objection, the jury still heard Young's closing statement and the court did not give a curative instruction to the jury; therefore, we find the court's ruling did not deprive Young of his right to a fair trial. *See McElveen v. Ferre*, 299 S.C. 377, 381, 385 S.E.2d 39, 41 (Ct. App. 1989) ("When objection is timely made to improper remarks of counsel, the judge should rule on the objection, give a curative charge to the jury, and instruct offending counsel to desist from improper remarks."); *McKissick v. J.F. Cleckley & Co.*, 325 S.C. 327, 350, 479 S.E.2d 67, 78 (Ct. App. 1996) ("An appellant seeking reversal must show error and prejudice.").

2. Young argues the trial court erred in denying his motion for a new trial absolute and JNOV. Viewing the testimony and reasonable inferences to be drawn therefrom in the light most favorable to the nonmoving party, we find Young and Respondents presented conflicting evidence on the issue of gross negligence; thus,

the trial court's decision to deny Young a new trial absolute or JNOV was supported by the evidence. *See Vinson v. Hartley*, 324 S.C. 389, 405, 477 S.E.2d 715, 723 (Ct. App. 1996) ("In deciding whether to assess error to a court's denial of a motion for a new trial, we must consider the testimony and reasonable inferences to be drawn therefrom in the light most favorable to the nonmoving party."); *id.* ("The grant or denial of new trial motions rests within the discretion of the trial judge and his decision will not be disturbed on appeal unless his findings are wholly unsupported by the evidence or the conclusions reached are controlled by error of law."); *Welch v. Epstein*, 342 S.C. 279, 299, 536 S.E.2d 408, 418 (Ct. App. 2000) (stating in reviewing the trial court's denial of a motion for a directed verdict or JNOV, "this [c]ourt must employ the same standard as the trial court by viewing the evidence and all reasonable inferences in the light most favorable to the nonmoving party"); *id.* at 300, 536 S.E.2d at 418 (holding this court will reverse only when there is no evidence to support the ruling below).

3. Young argues the trial court erred in denying his motion for a new trial under the thirteenth juror doctrine. Our review of the record shows the trial court's ruling is not wholly unsupported by the evidence because evidence was presented that Respondents were not grossly negligent; thus, we find the verdict was not inconsistent with the evidence presented. *See Folkens v. Hunt*, 300 S.C. 251, 254-55, 387 S.E.2d 265, 267 (1990) ("A trial judge's order granting or denying a new trial upon the facts will not be disturbed unless his decision is wholly unsupported by the evidence, or the conclusion reached was controlled by an error of law."). Therefore, we find the trial court did not err in denying Young's motion.

4. Young argues the trial court erred in allowing the jury to hear the deposition testimony of his ex-wife, Deborah Knowles. We decline to address this issue for failure to cite any authority. *See* Rule 208(b)(1)(E), SCACR (requiring citation to authority in the argument section of an appellant's brief); *First Sav. Bank v. McLean*, 314 S.C. 361, 363, 444 S.E.2d 513, 514 (1994) (noting when a party fails to provide arguments or supporting authority for his assertion, the party is deemed to have abandoned the issue on appeal); *State v. Lindsey*, 394 S.C. 354, 363, 714 S.E.2d 554, 558 (Ct. App. 2011) ("An issue is deemed abandoned and will not be considered on appeal if the argument is raised in a brief but not supported by authority.").

5. Young argues the trial court erred in instructing the jury on comparative negligence. Because the jury found Respondents were not grossly negligent, they did not consider comparative negligence. Thus, we find the jury charge did not prejudice Young. *See Cole v. Raut*, 378 S.C. 398, 405, 663 S.E.2d 30, 33 (2008)

("An erroneous jury instruction . . . is not grounds for reversal unless the appellant can show prejudice from the erroneous instruction.").

AFFIRMED.¹

THOMAS, MCDONALD, and HEWITT, JJ., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.

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Apr 21 2022

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENWOOD COUNTY
Court of Common Pleas

The Honorable Frank Addy, Circuit Court Judge

Appellate Case No. 2019-000637

Tony Young,.....Appellant,

v.

Greenwood County Detention Center and the Greenwood County Sheriff's Office, Defendants,
Of Which the Greenwood County Sheriff's Office is.....Respondent.

APPELLANT'S PETITION FOR REHEARING

COMES NOW the appellant, pursuant to Rule 221 SCACR, and other rules of Court, and petitions for rehearing as to the Court's dismissal of this appeal. The appellant respects the Court's decision, but respectfully submits that he must petition the Court for rehearing in order to preserve his right to petition the South Carolina Supreme Court for certiorari and, if necessary, petition the United States Supreme Court for certiorari. Young respectfully preserves for appeal and petition for certiorari all appellate issues, including all those briefed and all of those addressed by the South Carolina Court of Appeal's decision.

Young was deprived of his constitutional right to a jury trial. The appellate Court misapprehended the case law and the constitutional amendment that protects his right to a jury

trial. Young did not waive his objections to related convictions. Rather, the Court addressed those convictions and prejudiced him before the record stated, without warning, and before he could object. As a result, *Kirkland v. Allcraft Steel Co.* 329 S.C. 389, 392, 496 S.E.2d 624, 626 (1998) is inapplicable.

The excluded proffered testimony should have been admitted. It is not required that other inmates have been mistreated in exactly the same way as Young, only that other inmates were mistreated. See Rule 401 SCRE and related case law.

Young was entitled to a new trial. See *Welch v. Epstein* 536 S.E.2d 408, 342 S.C. 279 (Ct. App. 2000). The denial of his motion for a new trial was clear error and abuse of discretion. The Court denied Young the right to present relevant evidence and prejudiced his case in front of the jury. The Court also erred in failing to grant Young a new trial under the thirteenth juror doctrine. Because Young was denied his right to a fair trial under the seventh amendment, it was an abuse of discretion for the Court to fail to grant him a new trial.

Young respectfully submits that the Court erred in its jury instructions. It was impossible for Young to be comparatively negligent, and such an instruction can only amount to an abuse of discretion. See *Cole v. Raut*, 378 S.C. 398, 404, 663 S.E.2d 30, 33 (2008). The Appellate Court reasoned that since the jury found the Sheriff's Office was not negligent, this issue is of no consequence. The Court did not address, however, how hearing this instruction, along with the Court's negative commentary on the evidence, deprived Young of his rights and prejudiced him.

The trial court erred in allowing Deborah Knowles' deposition. The evidence showed that Knowles was confused and ill when she was deposed, and the Court did not address the error related to the trial court allowing the testimony.

Perhaps the most important issue for the Court is the trial court's diminishing of Young's case in front of the jury. The American system of justice is built on everyone's right to a fair trial. When a trial court influences a jury's decision by commenting on the strength or weakness of the evidence, it robs a litigant of his right to have his peers determine facts and a "controversy exceeding twenty dollars." The Appellate Court failed to apply the plain words of the constitution and the case law related to it.

CONCLUSION

For these reasons, Young requests rehearing and that the Appellate Court alter and amend its decision. In the alternative, Young preserves all issues for appellate review by the state and federal Supreme Courts.

Respectfully submitted,

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Apr 21 2022

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENWOOD COUNTY
Court of Common Pleas

The Honorable Frank Addy, Circuit Court Judge

Appellate Case No. 2019-000637

Tony Young,.....Appellant,

v.

Greenwood County Detention Center and the Greenwood County Sheriff's Office, Defendants,

Of Which The Greenwood County Sheriff's Office is.....Respondent.

PROOF OF SERVICE

I certify that I have served the Appellant's Petition for Rehearing on The South Carolina Court of Appeals, via U.S. Certified Mail *and* electronic mail to the addresses listed below, and on The Greenwood County Sheriff's Office via electronic mail only, on April 21, 2022, to their attorney of record at addresses below:

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The South Carolina Court of Appeals

Tony Young, Appellant,

v.

Greenwood County Detention Center and the Greenwood
County Sheriff's Office, Defendants,

Of Which The Greenwood County Sheriff's Office is
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Appellate Case No. 2019-000637

ORDER

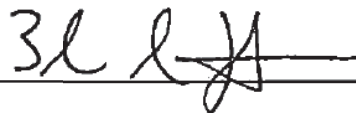
After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.



J.



J.



J.

Columbia, South Carolina

cc:

FILED
May 03 2022

Joshua Thomas Hawkins, Esquire
Kyle Jason White, Esquire
Russell W. Harter, Jr., Esquire
Helena LeeAnn Jedziniak, Esquire
The Honorable Frank R. Addy, Jr.