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Jun 26 2023

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHESTERFIELD COUNTY
Court of Common Pleas

Judge Michael G. Nettles

Appellant Case No. 2022-001462

Daryl ParkerAppellant

v.

Orangeburg County..... Respondent.

ARGUMENT IN REPLY BRIEF



26 June, 2023

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COURT OF APPEALS

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Appellant,

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ARGUMENT IN REPLY

RESPONDENT'S ARGUMENT FAILS TO ADDRESS THE ISSUES CENTRAL TO THE COURT'S CONSIDERATION.

Respondent, in its brief, focuses on the nature of Appellant's challenge to this Court. Respondent has focused its arguments in three prongs: "Respondent is required to detain individuals subject to confirmed, valid, bench warrants" and "Respondent has no discretion, authority to cancel or rescind bench warrants" and "Respondent used due care, as a matter of law, in regard to Appellant's detention."

These categorizations in themselves are reductive as applied to Appellant's position. Appellant was, undoubtedly, held longer than he should have been under the applicable criminal law. Appellant was responsible for, under the terms of his plea agreement in General Sessions, either a fine of one hundred dollars (\$100) plus court costs or thirty (30) days in jail. As previously noted, these thirty days would convert to a sentence of approximately twenty-one (21) days, well before the date when Appellant was held by the Orangeburg County Detention Center.

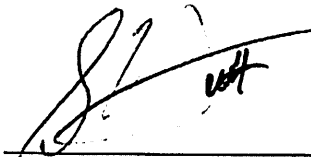
Appellant does not quarrel with portions of the Appellant's argument. It is within the purview of an arresting officer and detaining agency to detain someone with a bench warrant, at least initially, in the scenario presented by Appellant. It is also not immediately the responsibility of these entities to question a warrant issued by the Circuit Court. However, the Appellant's case extends beyond these purported limits. Numerous state statutes make it clear that jails have a duty to the people whom they house. *See, e.g.*, S.C. Code Ann. § 24-5-90 (not permitting discrimination against prisoners) and S.C. Code Ann. § 44-23-220 (not allowing mentally ill persons to be housed merely for safekeeping). These statutes and others like them demonstrate that prisoners are not held or treated pursuant to the whims of the State or the corrections system.

The Orangeburg County Detention Center does not abandon its duties to its inmates after their booking. S.C. Code Ann. § 24-5-10 has been interpreted to not permit jails to refuse bookings; however, the detention center's duties continue on. Appellant was in the detention center for multiple weeks. The failure of the detention center was and is that Appellant was housed there for weeks beyond the exhaustion of his maximum sentence. The Respondent took no steps to release Appellant and took no steps to alert a clerk of court, judge, or any person capable of addressing the Appellant's detention. Appellant took steps on multiple occasions to alert staff to his situation and his requests were ignored. This further emphasizes the ongoing duties of Respondent that Respondent breached through its failures to act.

With respect to Respondent's arguments regarding the Tort Claims Act, the South Carolina Supreme Court holds that under the SCTCA, "when an exception containing the gross negligence standard applies, that same standard will be read into any other applicable exception. Otherwise, portions of the Act would be a nullity, which the Legislature could not have intended." *Steinke v. S.C. Dept. of Labor, Licensing*, 336 S.C. 373, 398, 520 S.E.2d 142 (1999); see *Repko v. Cnty of Georgetown*, 424 S.C. 494, 507, 818 S.E.2d 743, 750 (2018) (holding that "in order for the gross negligence standard from one immunity provision to be read into an immunity provision that does not contain a gross negligence standard, the immunity provision containing the gross negligence standard must first apply to the case"); *Chakrabarti v. City of Orangeburg*, 403 S.C. 308, 320, 743 S.E.2d 109, 115 (Ct. App. 2013) ("We hold that when an exception containing the gross negligence standard applies, that same standard will be read into any other applicable exception."). As numerous provisions of the Tort Claims Act raised by the Respondents in this defense contain a gross negligence standard, including but not limited to exemption (25), the gross negligence standard should be read into all other exemptions, such that none of the exemptions operate as a complete bar to recovery.

CONCLUSION

Appellant reiterates the absurdity of his predicament; Respondent has indicated that no issues were presented by Appellant's continued detention. This means that Appellant could have been held indefinitely with no civil remedy. This cannot be the case.



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Appellant Case No. 2022-001462

I certify that I have served the Appellant's Argument in Reply on opposing counsel, Alison D. Hood Ness & Jett LLC, by mailing U.S. Postal Service to the address PO Box 909 Bamberg, SC 29003.

May 5, 2023



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