



upon an animal. The date of the offense on the arrest warrant was given as October 15, 2020. The criminal charge was later dismissed at a preliminary hearing.

At the time the cat was brought to Spartanburg Animal Clinic, its condition was dire. Photographs taken of the cat at Spartanburg Animal Clinic at the time of its euthanization demonstrate that the cat was suffering from a severely progressed dental disease that caused the growth of a large mass inside its mouth and open, necrotic wounds on its face. The Plaintiff's own testimony during his deposition and medical records from other veterinary clinics, HealthPointe Veterinary Clinic and Paw Prints Animal Hospital, showed that the cat had suffered in this condition since at least October 15, 2020. Furthermore, when the Plaintiff took his cat to these other vets, he was advised to either permit the euthanization of the cat, or seek surgical intervention. The Plaintiff did not follow either course of action but instead chose to allow the cat to remain in its pitiful condition.

### **SUMMARY JUDGEMENT STANDARD**

Summary judgment is appropriate if there is no genuine issue as to any material fact and the moving party is entitled to a judgment as a matter of law. Rule 56(c), SCRCF; also *Kitchen Planners, LLC v. Friedman*, Appellate Case No. 2020-001669, 2023 WL 5420401 (Supreme Court August 23, 2023). Once a moving party establishes the absence of a genuine issue of material fact, the opponent must present specific facts showing a genuine issue for trial. *Gauld v. O'Shaughnessy Realty Co.*, 380 S.C. 548, 558-59, 671 S.E.2d 79, 85 (Ct. App. 2008). Mere speculation or conjecture does not create a sufficient factual dispute. *McKnight v. S.C. Dep't of Corr.*, 385 S.C. 380, 390, 684 S.E.2d 566, 571 (Ct. App. 2009). The opponent cannot simply rest on the allegations in the complaint to defeat a motion for summary judgment. *Gauld*, 380 S.C. at 559, 671 S.E.2d at 85. Further, a failure to establish an element of the cause of action "necessarily renders all other

facts immaterial,” and the moving party is entitled to summary judgment. *Baughman v. AT&T*, 306 S.C. 101, 116, 410 S.E.2d 537, 546 (1991). “The plain language of Rule 56(c), SCRPC, mandates the entry of summary judgment, after adequate time for discovery against a party who fails to make a showing sufficient to establish the existence of an element essential to the party's case and on which that party will bear the burden of proof at trial.” *Boone v. Sunbelt Newspapers, Inc.* (Citing *Carolina Alliance for Fair Employment*, 337 S.C. at 485, 523 S.E.2d at 800).

### ANALYSIS

Plaintiff is unable to present sufficient evidence to establish a genuine issue of material fact as to the existence of any claim against VetCor. Specifically, Plaintiff cannot produce evidence capable of rebutting the overwhelming evidence that he did in fact engage in the ill-treatment of animals. The record establishes the existence of probable cause leading to his arrest and the truth of the allegedly defamatory statements. Additionally, the reports made by Spartanburg Animal Clinic employees to law enforcement are privileged and not actionable due to animal control's independent investigation.

#### **A. Plaintiff's False Arrest, False Imprisonment, and Malicious Prosecution Claims Fail due to the Existence Probable Cause**

False Imprisonment and False Arrest share the same elements, which are “(1) the defendant restrained the plaintiff, (2) the restraint was intentional, and (3) the restraint was unlawful. *Argoe v. Three Rivers Behavioral Health, L.L.C.*, 392 S.C. 462, 473, 710 S.E.2d 67, 73 (2011). The elements of malicious prosecution are: “(1) the institution or continuation of original judicial proceedings; (2) by or at the instance of the defendant; (3) termination of such proceedings in [the] plaintiff's favor; (4) malice in instituting such proceedings; (5) lack of probable cause; and (6) resulting injury or damage.” *Pallares v. Seinar*, 407 S.C. 358, 756 S.E.2d 129 (2014). An essential element in each of these causes of action is lack of probable cause at

the time of arrest. See *Gist v. Berkeley County Sheriff's Dep't*, 336 S.C. 611, 615, 521 S.E.2d 163, 165 (Ct.App. 1999) ("An action for false imprisonment may not be maintained where the plaintiff was arrested by lawful authority . . . the fundamental issue in determining the lawfulness of an arrest is whether there was 'probable cause' to make the arrest."); See also *Gaar v. North Myrtle Beach Realty Co., Inc.*, 287 S.C. 525, 528, 339 S.E.2d 887, 889 (Ct.App. 1986) (listing the elements of malicious prosecution, including "want of probable cause"). Moreover, Probable cause is a good faith belief that a person is guilty of a crime when the belief rests on such grounds as would induce an ordinary, prudent, and cautious person under the circumstances to believe likewise. *Gathers v. Harris Teeter Supermarket, Inc.*, 282 S.C. 220, 228, 317 S.E.2d 748, 754 (Ct.App.1984). Consequently, the existence of probable cause warrants summary judgment in favor of the Defendants.

Here, Defendants VetCor and the City of Belton have produced overwhelming evidence that demonstrates the existence of probable cause to conclude that Mr. Snipes violated S.C. Code §41-1-40(B) by causing his cat Sky to suffer unnecessary pain as a result of his refusal to Euthanize or otherwise treat the animal in October of 2020. The photos of Sky prove that Sky was in a pitiful condition at the time of his death. The records from Paw Prints and HealthPointe Animal clinics demonstrate that the cat had suffered in that wretched condition for at least three months. During those visits, Mr. Snipes was counseled to either euthanize Sky or permit drastic medical intervention – he refused both options. By the time Sky was taken to Spartanburg Animal Clinic, he weighed only half of his healthy body weight – having decreased from a healthy body weight of 9.80 pounds to 4.90 pounds.

The only evidence Plaintiff can muster to rebut the existence of probable cause is his own testimony that Sky “miraculously” continued to eat, drink, and carry on a normal existence.).

Plaintiff has no witnesses, or any other sufficient documentation to support these claims that contradict the opinions of at least three separate veterinarians. Consequently, Plaintiff cannot establish the lack of probable cause, and for this reason alone summary judgement should be granted on his False Arrest, False Imprisonment, and Malicious Prosecution causes of action.

**B. Plaintiff's False Arrest, False Imprisonment, and Malicious Prosecution Claims Fail Because VetCor Staff Merely Alerted Law Enforcement to the Possibility of Crime**

Additionally, VetCor cannot be liable for these three causes of action when its employees simply reported valid concerns to law enforcement. Critically, “[w]here a person merely directs the attention of a police officer to what he supposes to be a [crime] ... and the officer, without other direction, arrests the offender on his own responsibility, the person who did nothing more than communicate the facts to the officer is not liable for causing the arrest”. *Wingate v. Postal Tel. & Cable Co.*, 204 S.C. 520, 528, 30 S.E.2d 307, 311 (1944).

The evidence shows that VetCor employees merely reported concerns to law enforcement and did not otherwise direct or request the arrest or prosecution of Mr. Snipes. When Amanda Harvey called the City of Belton Police, she requested a welfare check. When contacted by animal control, she stated her concerns and described the condition of Sky on January 29, 2021, but there is no evidence indicating that she requested the arrest or prosecution of Mr. Snipes. Instead, the evidence establishes that she merely requested an investigation. An investigation was independently performed which further established the existence of probable cause, and lead to the independent decision of law enforcement to arrest Mr. Snipes. Therefore, Plaintiff cannot establish the necessary participation of VetCor employees in Mr. Snipes' arrest and prosecution sufficient to create a viable claim for False Imprisonment, False Arrest, or Malicious Prosecution.

**C. Plaintiff's Defamation Claim Fails Because the Statements were both True and Privileged**

To establish a claim defamation, a Plaintiff must prove “(1) a false and defamatory statement was made; (2) the unprivileged publication was made to a third party; (3) the publisher was at fault; and (4) either actionability of the statement irrespective of special harm or the existence of special harm caused by the publication.” *Argoe v. Three Rivers Behavioral Health, LLC*, 392 S.C. 462, 469; 710 S.E.2d 67, 74 (2011). “A communication is defamatory if it tends to harm the reputation of another as to lower him in the estimation of the community or to deter third persons from associating or dealing with him.” *Fleming v. Rose*, 350 S.C. 488, 494, 567 S.E.2d 857, 860 (2002). Furthermore, “In addition to being defamatory, the statement must be false.” *Id.* A sufficient defense is made out where the evidence establishes that the statement was substantially true. *Ross v. Columbia Newspapers, Inc.*, 266 S.C. 75, 80, 221 S.E.2d 770, 772 (1976). “It is not necessary to establish the literal truth of the precise statement made.” Restatement (Second) of Torts § 581A (1977). “Slight inaccuracies of expression are immaterial provided that the defamatory charge is true in substance.” *Id.*

Ordinarily, when the Plaintiff is a private citizen, they need not prove actual malice and the fault requirement can be established by mere negligence. *Jones v. Sun Pub. Co.*, 278 S. C. 12, 16-17, 292 S. E. 2d 23, 24 (1982). However, under the doctrine of qualified privilege, the Plaintiff can be required to prove malice even when they are a private citizen. *Swinton Creek Nursery v. Edisto Farm Credit, ACA*, 334 S.C. 469, 484, 514 S.E.2d 126, 134 (1999) (“Where the occasion gives rise to a qualified privilege, there is a prima facie presumption to rebut the inference of malice, and the burden is on the plaintiff to show actual malice or that the scope of the privilege has been exceeded one”) “Common law malice” means the defendant acted with ill will toward the plaintiff, or acted recklessly or wantonly, i.e., with conscious indifference of the

plaintiff's rights." *Erickson v. Jones Street Publishers, L.L.C.*, 368 S.C. 444, 466, 629 S.E.2d 653, 675 (S.C. 2006). Critically, Communications made in the investigation of a crime for the purpose of detecting the participants in the crime are privileged. *Bell v. Bank of Abbeville*, 208 S.C. 490, 494, 38 S.E.2d 641, 643 (1946) ("The protection of privilege extends generally to remarks made in the prosecution of an inquiry regarding a crime which has been committed; and for the purpose of detecting and bringing the criminal to punishment"); See also *Switzer v. Am. Ry. Express Co.*, 119 S.C. 237, 241, 112 S.E.110, 111 (1922).

**1. All Alleged Defamatory Statements by VetCor Employees were True**

In his Complaint, Plaintiff alleges that VetCor made multiple false statements to law enforcement accusing him of animal abuse. However, during Mr. Snipes' deposition, he testified that the only known false statement made by a VetCor employee to law enforcement was Amanda Harvey's statement that it was "impossible" Sky "was active the night before, eating and the cat actually slept on his chest." It is doubtful this statement was defamatory even if false, but more importantly, it appears to be substantially true. Mr. Snipes testified that the night before the visit to Spartanburg Animal Clinic he thought Sky was dead due to his inactivity. Furthermore, there is ample evidence that Sky could not eat: he weighed only 4.9 pounds at the time of his visit – half of his healthy body weight – and Dr. Hurlbert at HealthPointe concluded three months prior that he was unable to eat. Therefore, Amanda Harvey's statement was true and cannot be the basis of an actionable defamation claim.

Moreover, there is no evidence that any VetCor employee made any other false statements. As discussed above, the record plainly shows that Sky was forced to suffer as a result of Mr. Snipes' refusal to Euthanize or treat Sky. Consequently, the Plaintiff cannot establish the falsity of any statement and VetCor should be granted summary judgment on the

defamation claim.

**2. All Alleged Defamatory Statements by VetCor Employees were Privileged**

The allegedly defamatory statements by VetCor employees were made to law enforcement for the purpose of reporting a crime. As such, they were qualifiedly privileged communications that cannot form the basis of a defamation claim absent a showing of malice. *Bell v. Bank of Abbeville*, 208 S.C. 490, 494, 38 S.E.2d 641, 643 (1946). Moreover, Plaintiff cannot carry his burden of establishing malice. Plaintiff must show that “defendant acted with ill will toward the plaintiff, or acted recklessly or wantonly, i.e., with conscious indifference of the plaintiff’s rights.” *Erickson v. Jones Street Publishers, L.L.C.*, 368 S.C. 444, 466, 629 S.E.2d 653, 675 (S.C. 2006). However, the evidence demonstrates that the report made by VetCor employees was not for the purpose of harming the Plaintiff, but out of concern for his other cats.

When Amanda Harvey called the City of Belton Police, they labeled the report as a request for a “Welfare check/animal neglect.” Mr. Snipes even understood that the purpose of animal control’s initial visit was to perform a “wellness check” on his animals according to his deposition testimony. Moreover, for the reasons discussed above that demonstrate probable cause and the truth of the statements made, the reporting of mere facts to law enforcement is not actionable merely because the facts reported do in fact constitute a crime. Consequently, the alleged defamatory are privileged and therefore not actionable and summary judgment should be granted.

**D. Plaintiff’s Negligence Claim Should Be Dismissed Because Plaintiff cannot Establish the Existence of a Duty or A Breach of a Duty by VetCor**

The truthfulness of the statements made by VetCor employees to animal control precludes any claim for negligence. Claim for negligence requires proof that “(1) the defendant owes a duty of care to the plaintiff; (2) defendant breached the duty by a negligent act or

omission; (3) defendant's breach was the actual or proximate cause of the plaintiffs injury; and (4) plaintiff suffered an injury or damages.” *Doe ex Rel. Doe v. Wal-Mart Stores, Inc.* 393 S.C. 240, 244; 711 S.E.2d 908, 912 (S.C. 2011). It is essential the plaintiff establish that a legal duty of care was owed to the plaintiff by the defendant. *Denson v. Nat'l Cas. Co.*, 439 S.C. 142, 886 S.E.2d 228 (2023). “For negligent conduct to become actionable, it must violate some specific legal duty owed to the plaintiff.” *Rice v. School district of Fairfield*, 317 S.C. 87, 93, 452 S.E.2d 352, 358 (Ct. App. 1994) (citing *Foster v. Greenville Medical Soc.*, 95 S.C. 190, 367 S.E.2d 468 (Ct. App. 1988) (emphasis added). In determining whether a particular act is negligent, the test depends on what a person of ordinary reason and prudence would do under those circumstances at that time and place. *Berberich v. Jack*, 392 S.C. 278, 287, 709 S.E.2d 607, 612 (2011). “Absent a legally recognized duty, the defendant in a negligence action under South Carolina law is entitled to a judgment as matter of law.” *Humphrey v. Day & Zimmerman Intern., Inc.*, 997 F. Supp. 2d 388 (D.S.C. 2014). Here, Plaintiff cannot establish the existence of a duty or any breach.

To the extent Plaintiff can make a claim for negligence, it must be based on allegedly false statements made to law enforcement. However, as demonstrated above, the statements made by VetCor employees were true. No breach can exist without a wrongful act. The mere reporting of a crime to police is not wrongful. Consequently, the Plaintiff cannot establish a claim for negligence.

### **CONCLUSION**

For the reasons stated above, VetCor’s Motion for Summary Judgement is hereby **GRANTED.**

*Signature on following pages*

SO ORDERED, this \_\_\_\_ day of \_\_\_\_\_, 2023

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The Honorable Lawton, R McIntosh  
Court of Common Pleas  
Fourth Judicial Circuit



Anderson Common Pleas

**Case Caption:** Robert Stro Snipes VS City Of Belton , defendant, et al

**Case Number:** 2023CP0400203

**Type:** Order/Summary Judgment

S/R. LAWTON McINTOSH

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