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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas

The Honorable R. Lawton McIntosh, Circuit Court Judge

Case No. 2024-000155

City of Belton and VetCor of
Spartanburg, LLC.

Respondents,

v.

Robert Stro Snipes,

Appellant,

INITIAL BRIEF OF RESPONDENT CITY OF BELTON

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STATEMENT OF ISSUES ON APPEAL

I. The Circuit Court appropriately granted Respondent Belton's Motion for Summary Judgment as to Snipes' claim for malicious prosecution because there was probable cause to arrest Snipes for ill treatment of an animal under South Carolina Code § 47-1-40.

II. The Circuit Court's judgment in favor of Respondent Belton as to Snipes' claim for malicious prosecution should be affirmed also because there was no final determination in Snipes' favor as to the criminal proceedings against him.

III. Snipes' causes of action for false arrest and false imprisonment against Respondent Belton are waived because he makes no argument as to Respondent Belton in his brief. Even if he had, those claims lack merit as a matter of law because Snipes was arrested pursuant to a valid arrest warrant issued by Judge Bannister.

IV. Snipes' contention he should be allowed more time to do discovery lacks any merit. Snipes had ample opportunity to conduct discovery, he has failed to meet his burden of showing he is entitled to do additional discovery, and he has not demonstrated the likelihood that further discovery will reveal additional relevant information.

STATEMENT OF THE CASE

Robert Snipes initiated this suit against Respondent City of Belton (“Respondent Belton”) and Respondent VetCor of Spartanburg, LLC (hereinafter “Respondent VetCor”) on January 31, 2023, alleging a total of eleven causes of action. (Compl.). The six causes of action against Respondent Belton included: (1) gross negligence; (2) false imprisonment; (3) false arrest; (4) malicious prosecution; (5) violation of Article 1 § 3 of South Carolina’s Constitution; and (6) violation of Article I § 10 of South Carolina’s Constitution. (Compl.). In general, Snipe’s Complaint claimed the Respondent Belton improperly arrested Snipes for his treatment of his cat named Skye. (Compl. ¶¶ 4-13). Early in the litigation, the parties stipulated to the dismissal of Snipes’ fifth and sixth causes of action. (Stip. of Dismissal entered April 4, 2023).

Many months later, Respondent Belton filed its Motion for Summary Judgment as to all Snipes’ remaining claims against it. (Resp. Belton’s Motion for Summary Judgment; Resp. Belton’s Memorandum in Support of Motion for Summary Judgment). Respondent VetCor also filed a Motion for Summary Judgment as to all the claims against it.

The Honorable R. Lawton McIntosh heard both Respondents’ Motions for Summary Judgment on November 28, 2023. (Hearing Transcript). During the hearing, Snipes conceded that his claim for false arrest against Respondent Belton and Respondent VetCor was not valid because Snipes’ arrest was based on a facially valid warrant. (Hearing Transcript, 11:1-5).¹ On December 18, 2023, Judge McIntosh granted summary judgment in favor of both Respondents as to all claims against them. (Order Granting Resp. Belton’s Motion for Summary Judgment; Order Granting Resp. VetCor’s Motion for Summary Judgment). On December 28, 2023, Snipes filed Motions to

¹ Snipes’ claim for false imprisonment is also invalid because false arrest and false imprisonment are identical causes of actions. *Carter v. Bryant*, 429 S.C. 298, 316, 838 S.E.2d 523, 533 (Ct. App. 2020).

Reconsider both Orders granting the Motions for Summary Judgment. (Snipes' Motion to Reconsider, Alter, or Amend Order Granting Summary Judgment in Favor of Resp. Belton and Snipes' Motion to Reconsider, Alter, or Amend Order Granting Summary Judgment in Favor of Resp. VetCor). On January 3, 2024, Judge McIntosh issued an Order denying Snipes' Motions to Reconsider, and on January 22, 2024, Snipes filed his Notice of Appeal. (Order entered January 3, 2024; Notice of Appeal).

On appeal, Snipes does not make any argument regarding his claims against Respondent Belton for false arrest, false imprisonment, or gross negligence. As such, any argument as to those causes of action are waived. S.C. App. Ct. R. 208(b)(1)(B) ("Ordinarily, no point will be considered which is not set forth in the statement of issues on appeal."). Therefore, malicious prosecution is the only remaining cause of action at issue in Snipes' appeal as to Respondent Belton.

STATEMENT OF FACTS

This litigation arose out of Snipes' arrest for animal abuse inflicted on Skye, one of Snipes' many cats. In late January 2021, Amanda Harvey, an employee of Respondent VetCor, a veterinarian clinic in Spartanburg, contacted the Animal Control Officer employed by Respondent Belton to complain that Snipes had allowed Skye to endure pain and suffering for many months. (Richey Affidavit ¶ 1; Howe Affidavit, Exhibit A p. 16). In particular, Ms. Harvey reported that Skye had lost significant weight and was septic from a mouth infection that was causing his face to decay. (Howe Affidavit, Exhibit B p. 27). Respondent VetCor sent numerous photographs it took of Skye to Respondent Belton, including the photograph below that reflects Skye's condition the day he was seen at Respondent VetCor's clinic. (Howe Affidavit, Exhibit A p. 16). In a brief filed by Snipes in the Circuit Court in this action, Snipes correctly admitted that these photographs are "shocking." (Snipes' Memorandum in Opposition to Motions for Summary Judgment p. 3).



After reviewing the disturbing photographs and information from Respondent VetCor, Howe promptly initiated an investigation into the reported allegations. ("Howe Affidavit" at ¶¶ 1-3). Howe met with Snipes at his residence, where she observed hoarder-like conditions, including

the heavy scent of cat urine, combustibles on the stove top, and many open cans of cat food. (Id. at ¶ 4). Howe also obtained Skye's medical records from multiple veterinarian clinics and spoke to Dr. Hurlbert of Healthpointe Veterinary Clinic about Skye's condition. (Id. at ¶ 5).

The records Howe reviewed showed that Skye suffered from severe dental disease before his death. (Howe Affidavit ¶¶ 2, 5, Exhibit A p. 10). Howe learned that in October 2020, Skye was "underweight," had a "dull, unkempt coat," and that veterinarian Melissa Elledge of Paw Prints Animal Hospital recommended euthanasia at that time because the cat's condition was beyond the scope of her ability to treat. (Howe Affidavit, Exhibit A p. 10). Howe learned that in the three months after that appointment, Skye was treated again by Paw Prints Animal Hospital and by two additional clinics: HealthPointe Veterinary Clinic and Respondent VetCorr. (Howe Affidavit, Exhibit A pp. 13, 16, 22). The records Howe reviewed show that each time Skye was seen, the clinics noted his poor condition. (Id.). When Howe spoke with Dr. Hurlbert of Healthpointe Veterinary Clinic, Dr. Hurlbert told her she had treated Snipes' cats before, and they were always in severe condition. (Howe Affidavit, Exhibit B p. 30). Howe's notes from the conversation with Dr. Hurlbert state: "[Dr. Hurlbert] no longer wanted Mr. Snipes as a client. What she witnessed with 'Skye' the cat was absolutely heartbreaking and she felt it was a clear case of abuse." (Id.). Howe learned that after this visit, HealthPointe Veterinary Clinic sent Snipes a letter informing him that because of Skye's unacceptable condition, the clinic would no longer provide veterinary care to any of his pets. (Howe Affidavit, Exhibit A p. 22).

The final clinic to treat Skye described him as "emaciated," "severely dehydrated," "non-ambulatory, weak, and severely matted." (Howe Affidavit, Exhibit A p. 16). It was after this appointment that Respondent VetCorr reached out to Respondent Belton because it felt Snipes' treatment of Skye constituted animal cruelty. (Id.). Howe relied on the statements from Skye's

veterinary providers, the records they provided, and photos of the cat to determine that Snipes allowed Skye to suffer for months before the cat was euthanized at the Respondent VetCor clinic in January 2021.

Respondent Belton presented its findings and evidence relating to Snipes' treatment of Skye to Judge Dennis J. Bannister. (Arrest Warrant; Resp. Belton's Memorandum in Support of its Motion for Summary Judgment, Ex. B (the "Richey Affidavit") ¶ 5). On February 4, 2021, Judge Bannister signed an arrest warrant, finding that probable cause existed to arrest the Plaintiff for the ill treatment of an animal pursuant to South Carolina Code §47-1-40. (Arrest Warrant). Snipes was arrested at his residence the next day and booked at the Anderson County Detention Center. (Richey Affidavit at ¶¶ 7-9). Snipes was released from custody on the same day of his arrest. (Snipes dep. 141:11-20).

Snipes hired an attorney to represent him during his preliminary hearing. In his brief on appeal, Snipes states that no one from the City of Belton appeared at the preliminary hearing to provide any evidence against him. (Brief of App., p. 5). The judge presiding at the preliminary hearing – not Judge Bannister – dismissed the charge against Snipes. (Complaint ¶ 13).

STANDARD OF REVIEW

The Appellate Court applies the same standard that governs the trial court under Rule 56(c) in reviewing the Circuit Court's grant of Respondent Belton's motion for summary judgment. *See, e.g., Law v. S.C. Dep't of Corr.*, 368 S.C. 424, 434, 629 S.E.2d 642, 648 (2006). Thus, "a party is entitled to a judgment as a matter of law if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact." *Id.*; SCRCP 56. Summary judgment should be granted if the evidence and all inferences drawn from the evidence, viewed in the light most favorable to the nonmoving party, show that there is no genuine issue as to any material fact. *Fleming v. Rose*, 350 S.C. 488, 493–94, 567 S.E.2d 857, 860 (2002).

ARGUMENT

As noted above, Snipes only argument on appeal as to Respondent Belton relates to his claim for malicious prosecution. Snipes cannot show there is a genuine issue of material fact as to at least two of the six elements required to recover on a claim for malicious prosecution – lack of probable cause and termination of judicial proceedings in Snipes’ favor. *See Gaar v. N. Myrtle Beach Realty Co.*, 287 S.C. 525, 528, 339 S.E.2d 887, 889 (Ct. App. 1986) (listing six elements required to prove a claim for malicious prosecution). “An action for malicious prosecution fails if the plaintiff cannot prove each of the required elements by a preponderance of the evidence, including ... lack of probable cause.” *Law* at 435, 629 S.E.2d at 648; *Pallares v. Seinar*, 407 S.C. 359, 366, 756 S.E.2d 128, 131 (2014). Although whether probable cause exists is typically an issue for the jury, it may be decided as a matter of law by the Court when the evidence yields only one conclusion. *Carter v. Bryant*, 429 S.C. 298, 316, 838 S.E.2d 523, 533 (Ct. App. 2020). Snipes also cannot show that allowing additional time for discovery would lead to information sufficient to overcome the deficiencies in his case.

I. The Circuit Court appropriately granted Respondent Belton’s Motion for Summary Judgment as to Snipes’ claim for malicious prosecution because there was probable cause to arrest Snipes for ill treatment of an animal under South Carolina Code § 47-1-40.

There is no genuine issue of material fact that Respondent Belton had probable cause to arrest Snipes for violating South Carolina Code § 47-1-40, the “Ill-Treatment of Animals Statute.” This statute includes two crimes, one a misdemeanor and the other a felony. The Ill-Treatment of Animals Statute makes it a misdemeanor for a person to knowingly or intentionally ill-treat an animal, inflict unnecessary pain or suffering on an animal, or by omission or commission to knowingly or intentionally cause these acts to be done. S.C. Code § 47-1-40(A). It is a felony under

the same statute for a person to torture, torment, needlessly mutilate, cruelly kill, or inflict excessive or repeated unnecessary pain or suffering on an animal or cause such acts to be done. S.C. Code § 47-1-40(B). Snipes was charged with the felony offense. However, in determining probable cause for an arrest, the Court may consider an uncharged offense. *See Jackson v. City of Abbeville*, 366 S.C. 662, 669, 623 S.E.2d 656, 660 (Ct. App. 2005) (“[I]t is permissible to rely on an uncharged offense to establish probable cause.”). In this case, that means the Appellant’s arrest was proper if there was probable cause to arrest him for the misdemeanor or felony charges of ill-treatment of an animal. Snipes admits the information available to Respondent Belton at the time of his arrest supports a finding of probable cause for his arrest. (Brief of App., p. 7).

A. Snipes concedes the photographs of Skye and the cat’s medical records constitute probable cause for his arrest.

Snipes admits the evidence Respondent Belton relied on to establish probable cause – photographs of Skye and the cat’s medical records – supports a finding of probable cause for Snipes’ arrest. (Brief of App., p. 7). In his brief, Snipes concedes: “[T]he Respondents argue that the photographs of the cat at issue and medical records constitute probable cause for Snipes’ arrest, and Snipes concedes that a reasonable jury could make this determination.” Thus, Snipes cannot prove there is an issue of fact as to probable cause.

“Probable cause turns not on the individual’s actual guilt or innocence, but on whether facts within the officer’s knowledge would lead a reasonable person to believe the individual arrested was guilty of a crime.” *Jackson at 666*, 623 S.E.2d at 658. Probable cause is a “good faith belief” that the person arrested is guilty of a crime when the belief is based upon “grounds as would induce an ordinarily prudent and cautious man, under the circumstances, to believe likewise.” *Id.* at 666-67, 623 S.E. 2d at 658-59. Probable cause is not an “academic exercise in hindsight,” but rather, is determined based on the facts and circumstances known to the officer at the time of the arrest. *Id.*

Moreover “at the warrant stage the law does not demand certainty, clear and convincing proof, proof beyond a reasonable doubt, or even proof by the greater weight of the evidence,” but rather, the law demands a “fair probability.” *Carter*, 429 S.C. at 315, 838 S.E.2d at 532. When the evidence yields but one conclusion, whether probable cause exists may be decided as a matter of law. *Law* at 436, 629 S.E.2d at 649.

In *Law*, the Supreme Court found that the South Carolina Department of Corrections (hereinafter the “Department”) did not lack probable cause to arrest multiple criminal defendants even though the state charges against them were *nolle prossed*. *Id.* at 435, 629 S.E.2d at 648. The defendants, all correctional officers, alleged malicious prosecution, wrongful termination, and false imprisonment against the Department after they were charged with conspiracy to traffic cocaine and were suspended from their jobs. *Id.* at 431-32, 629 S.E.2d at 646-47. The trial court granted the Department’s motion for summary judgment on the defendants’ malicious prosecution claim. *Id.*

The Supreme Court affirmed the grant of summary judgment in favor of the Department. In finding the Department had probable cause for the defendants’ arrest, the Supreme Court cited the rule that a true bill of indictment was prima facie evidence of probable cause and stated the Department of Corrections’ investigation, which included multiple interviews and a search of bank records to corroborate the allegations against the defendants, established sufficient evidence of probable cause. *Id.* at 436-37, 629 S.E.2d at 649.

Like the Department’s investigation in the *Law* case, Respondent Belton conducted a “thorough investigation” of the allegations against Snipes before his arrest. Respondent Belton’s investigation similarly included multiple interviews and a review of veterinarian records to corroborate the allegations of animal abuse. Respondent Belton’s investigation included:

- Multiple interviews with Amanda Harvey from the Spartanburg Animal Clinic (Howe Affidavit, Ex. B at 27-28);
- An interview with Dr. Hurlbert of Healthcare Animal Hospital in which the veterinarian stated she felt Snipes' treatment of Skye was "a clear case of abuse" (Id. at 30);
- Photographs of Skye showing his terrible and appalling condition (Resp. Belton's Motion for Summary Judgment, Ex. A);
- Skye's medical records from the Spartanburg Animal Clinic (Id.; Howe Affidavit., Ex. A at. 14-16);
- Skye's medical records from Paw Prints Animal Hospital (Howe Affidavit, Ex. A. at 10-13);
- Skye's medical records from Electric City Animal Clinic (Id. at 17-21); and
- Skye's medical records from HealthPointe Veterinary Clinic (Id. at 22-25).

When Respondent Belton's Animal Control Officer spoke with Amanda Harvey, she learned Snipes told Ms. Harvey Skye was eating and drinking the night before the cat died. (Howe Affidavit, Ex. B p. 27). However, Ms. Harvey believed this was "impossible" because Skye's face was decaying away because of the untreated infection. (Id.).

Respondent Belton's Animal Control Officer, Doreen Howe, also personally witnessed evidence of animal abuse and neglect on two visits to Snipes' home. According to Howe, during her first visit to Snipes' residence, she was concerned by a build-up of trash and hoarder-like conditions at the house. (Howe Affidavit, Ex. A p. 27). She also noted a foul odor from the residence. (Id.). During Howe's second visit to Snipes' residence, she noted the interior of the house smelled overwhelmingly of urine. (Id. at p. 29). Thus, Respondent Belton's investigation into the allegation that Snipes abused Skye was thorough and sufficient to establish probable cause for his arrest.

Snipes concedes that, based on photographs of Skye and the cat's medical records, a reasonable jury could determine there was probable cause for his arrest. (Id. at 7). No further

analysis of the facts is needed. The standard for probable cause in malicious prosecution is whether the prosecutor, relying on the facts and circumstances within his knowledge, had a reasonable belief that a person is guilty of the crime charged. *Law* at 436, 629 S.E.2d at 649. Snipes admits the information available at the time of his arrest could show probable cause.

Snipes attempts to create a question of fact by arguing that Skye ate and drank the night before he died (Brief of App. p. 8) and that a newly uncovered photo of Skye purportedly taken soon before he was euthanized showed the cat eating. (Hearing Transcript 20:17-18). Even if Skye was able to eat and drink soon before his death, which Ms. Harvey told Howe was “impossible,” the cat had still endured months of suffering up to that point because his condition was clearly necrotic and septic by that time. (Howe Affidavit, Ex. B. at 27). Moreover, only the information within Respondent Belton’s knowledge at the time of Snipes’ arrest is relevant to determining whether there was probable cause for the arrest. *Jackson* at 666, 623 S.E.2d at 658. The photograph of Skye that Snipes claims was taken a few days before the cat’s death has no bearing on the probable cause analysis because it was not provided to Respondent Belton until the hearing on its Motion for Summary Judgment.

There is no genuine issue of material fact that Respondent Belton had sufficient evidence to believe probable cause existed to seek an arrest warrant for Snipes. It is clear from the record that Skye experienced months of pain and suffering before the cat’s humane euthanasia. Based on Skye’s medical records, Snipes knew of Skye’s desperate condition but refused to follow veterinarian advice to relieve the cat’s suffering. (See, e.g., Howe Aff., Ex. A p. 23 (stating that after Skye was seen by the veterinarian on November 17, 2020, Skye had “a poor quality of life and his condition was unacceptable”) and Howe Aff., Ex. A p. 13 (noting Snipes declined the recommended treatment from three different veterinarian clinics)). After Respondent Belton

presented its investigative findings to Judge Bannister, the Magistrate Judge determined there was probable cause to arrest Snipes. (Resp. Belton’s Motion for Summary Judgment, Ex. B). Snipes himself agrees that a jury viewing Respondent Belton’s investigation – the only information relevant to the analysis of probable cause – could find probable cause existed for Snipes’ arrest. Thus, there is no genuine issue of fact that Respondent Belton had probable cause to arrest Snipes. Because there was competent evidence to believe Snipes had committed the crime of ill-treatment of an animal, the Circuit Court’s judgment in favor of Respondent Belton on the malicious prosecution causes of action should be affirmed.

B. The dismissal of the charges against Snipes at a preliminary hearing was not a finding that no probable cause existed for his arrest.

Snipes argues that the dismissal of the charge against him at the preliminary hearing is evidence that Respondent Belton did not have probable cause for his arrest. (Brief of App. p. 9). The law is clear, however, that probable cause turns on the information available at the time of Snipes’ arrest, not the disposition of any future proceeding. *See Carter* at 318, 838 S.E.2d at 534 (holding that while charges against a criminal defendant were dismissed before the preliminary hearing, this “did not affect whether there was probable cause” for the arrest). The lack of prosecution of the charge after Snipes’ arrest bears no weight in the probable cause analysis because the information available to Respondent Belton at the time of Snipes’ arrest supports a finding of probable cause.

In the *Carter* case, Carter was arrested and charged with assaulting Faile, a man who Carter accused of trying to break into his house. *Id.* at 304-05, 838 S.E.2d at 526-27. The parties’ testimony in *Carter* conflicted. Carter claimed he acted in self-defense after Faile tried to break in. *Id.* Faile, on the other hand, claimed he went to Carter’s house to help him fix a well on the property that Carter managed, and that Carter attacked him while he was walking away from

Carter's house. *Id.* After speaking with both parties and an eyewitness, the Sheriff arrested Carter and charged him with assault and battery of a high and aggravated nature. *Id.* at 305, 838 S.E.2d at 527.

The charge against Carter was dropped before the preliminary hearing because the solicitor believed Carter would be acquitted by a jury. *Id.* Even though the charges were dropped, the Court of Appeals held that because the record – statements from the parties and witnesses – established probable cause for Carter's arrest, he was not entitled to recover on his claim for malicious prosecution. *Id.* at 316, 838 S.E.2d at 533.

Likewise, Snipes' arrest was supported by probable cause even though the charges against him were later dismissed. The evidence Respondent Belton uncovered in its investigation supported his arrest. As Snipes acknowledges, although no charge for ill-treatment of an animal has been reinstated against Snipes, Respondent Belton could still bring the same charges against him. (Brief of App. p. 8). Thus, the dismissal of the charges against Snipes does not mean Respondent Belton did not have probable cause for Snipes' arrest.

II. The Circuit Court's judgment in favor of Respondent Belton as to Snipes' claim for malicious prosecution should be affirmed also because there has been no final determination in Snipes' favor as to the criminal proceedings against him.

Even if Snipes can show Respondent Belton lacked probable cause for his arrest (which Respondent Belton denies), his claim for malicious prosecution still fails because a party may only recover on a claim for malicious prosecution if he shows, among other required elements, the termination of an original judicial proceeding in his favor. *Gaar* at 528, 339 S.E.2d at 889.

In the *Law* case, all the state criminal charges against the Defendants were dismissed in state court to allow the FBI to pursue federal charges instead. Thereafter, no federal charges were brought. *Id.* at 435, 629 S.E.2d at 648. The Defendants eventually sued the Department for

malicious prosecution for initiating the state criminal charges that were *nolle prossed*. The Court noted there was no favorable determination in favor of the Defendants because the charges were not dismissed “for reasons which imply or are consistent with innocence.” *Id.* at 435-36, 629 S.E.2d at 648-49.

In this case, the lack of a witness at Snipes’ preliminary hearing to introduce the significant evidence against him does not imply his innocence. Snipes admits the same criminal charge could be brought against him again. (Brief of App., p. 8). Because Snipes cannot establish the required element that the criminal charge against him was dismissed in his favor for reasons that implied his innocence, the Circuit Court’s judgment in favor of Respondent Belton on Snipes’ malicious prosecution cause of action should be affirmed.

III. Snipes’ causes of action for false arrest and false imprisonment against Respondent Belton are waived because he makes no argument as to Respondent Belton in his brief. Even if he had, those claims lack merit as a matter of law because Snipes was arrested pursuant to a valid arrest warrant issued by Judge Bannister.

In both Snipes’ Statement of Issues on Appeal (p. 3) and his heading on page 7 of his appellate brief, Snipes makes clear that he is arguing any claims for false arrest and false imprisonment against Respondent VetCorp, not Respondent Belton. As such, any argument that Snipes could make against Respondent Belton for false arrest and false imprisonment are waived. S.C. App. Ct. R. 208(b)(1)(B); *Herron v. Century BMW*, 395 S.C. 461, 466, 719 S.E.2d 640, 643 (2011).

Even if Snipes were appealing the Circuit Court’s grant of summary judgment to Respondent Belton on his false imprisonment and false arrest claims, those claims clearly lack merit. Snipes was arrested pursuant to a valid arrest warrant issued by Judge Bannister. “It has long been the law that one arrested pursuant to a facially valid warrant has no cause of action for false arrest.” *Carter*, 429 S.C. at 306, 838 S.E.2d at 528. Because the Plaintiff’s claim for false arrest fails,

so also does his claim for false imprisonment. “False arrest in South Carolina is also known as false imprisonment.” *Id.* at 306, 838 S.E.2d at 527.²

IV. Snipes’ contention he should be allowed more discovery lacks any merit. Snipes had ample opportunity to conduct discovery, he has failed to meet his burden of showing he is entitled to do additional discovery, and he has not demonstrated the likelihood that further discovery will reveal additional relevant information.

To prevail on this assertion, Snipes “must demonstrate the likelihood that further discovery will uncover additional relevant evidence and that [he] is not merely engaged in a fishing expedition.” *Dawkins v. Fields*, 354 S.C. 58, 69, 580 S.E.2d 433, 439 (2003). A finding of summary judgment should be upheld when the nonmoving party has time during discovery to seek out evidence, depose witnesses, and the opportunity to file motions for additional discovery time. *Savannah Bank, N.A. v. Stalliard*, 400 S.C. 246, 253, 734 S.E.2d 161, 165 (2012). When a party has ample time for discovery but chooses not to complete his investigation, he is not entitled to additional time to perform discovery, especially if he has not promptly filed a motion seeking more time for discovery. *Id.*

No additional discovery would yield information sufficient to overcome the deficiencies in Snipes’ case. Snipes had ample time to conduct discovery, and there is no evidence that additional discovery would have any bearing on the outcome of this case.

In this case, Snipes had from January 31, 2023, the date he filed his Complaint, to November 28, 2023 to conduct discovery. After a hearing on the Respondents’ Motions for

² Snipes does not make any argument against either Respondent on his claim for gross negligence, so it is also waived. S.C. App. Ct. R. 208(b)(1)(B). Moreover, it lacks merit. “There is also no viable claim for . . . gross negligence. [The plaintiff] contends the officers negligently arrested him without probable cause. This is indistinguishable from his malicious prosecution claim.” *Seabrook v. Town of Mount Pleasant*, 432 S.C. 441, 444, 853 S.E.2d 508, 510 (Ct. App. 2020).

Summary Judgment was scheduled for October 11, 2024, Snipes asked for and was granted a continuance so he would have additional time to respond to the motions. The Respondents consented to Snipe's motion. (Consent Order of Continuance). Snipes did not serve written discovery requests until October 10, 2023, which Respondent Belton timely answered. Despite being granted a continuance and having approximately 11 months to conduct discovery, Snipes did not notice any depositions.

Snipes has not demonstrated there is any likelihood that additional discovery will uncover additional relevant evidence. Although Snipes vaguely states he believes deposing Respondent Belton's agents will lead to evidence that would support his claims, he does not detail any specific information sought, individuals to be deposed, or explain how such evidence would overcome the Circuit Court's findings against him. To the contrary, no additional discovery will change the information Respondent Belton relied on at the time it presented its evidence to Judge Bannister – who issued a facially valid arrest warrant. Moreover, Snipes did not promptly file a motion seeking leave to do additional discovery after the Respondents' Motions for Summary Judgment were scheduling for hearing the second time. Thus, Snipes is not entitled to additional discovery, and the Circuit Court did not err in deciding Respondent Belton's Motion for Summary Judgment.

CONCLUSION

Snipes cannot establish Respondent Belton lacked probable cause for his arrest or that a final determination in his favor was made in the criminal case against him – two elements required to prove a claim for malicious prosecution. Snipes concedes that a reasonable jury reviewing the information Respondent Belton relied upon to arrest him could find that probable cause existed for his arrest. Respondent Belton undertook a comprehensive investigation into the claims against Snipes and obtained a valid warrant for his arrest. Additional discovery will not yield relevant

information, and Snipes has not demonstrated there is a likelihood such additional evidence even exists. Importantly, Snipes had almost a year after filing his complaint to conduct discovery, but he did not issue written discovery requests until almost ten months later or notice any depositions. Nothing can change the fact that Respondent Belton had substantial evidence that Snipes ill-treated his cat when he was arrested. For these reasons, Respondent Belton respectfully requests that the Circuit Court's Order granting summary judgment in its favor be affirmed.

Respectfully submitted,

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