

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Stephanie Chappell, as the Personal
Representative for the Estate of
James Chappell,

Plaintiff(s),

-vs

Johnny Mack Brown, in his capacity
as the Sheriff of the Greenville County
Sheriff's Office,

Defendants.

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

C. A. NO. 2019-CP-23-06009

**ORDER GRANTING SUMMARY
JUDGMENT**

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Jun 26 2024

SC Court of Appeals

CASE HISTORY

This action was filed in the Court of Common Pleas in Greenville County on October 15, 2019. The Complaint alleged multiple claims arising out of events that occurred on October 16, 2017. The allegations relate to an incident when Deputy Jeremy Jones responded to an alarm call, and during the course of that encounter, force was used against James Chappell resulting in his death. The Complaint made federal claims as well as a state law claim, and the action was removed to federal court. On August 26, 2020, the U.S. District Court dismissed with prejudice all federal claims against all of the Defendants and remanded the state law claim. The state law claim set out in the Complaint is a Cause of Action for Negligence and Gross Negligence making allegations as to the use of force in the incident, allegations as to a failure to have proper procedures and protocols for officers, and allegations as to inadequate training. The Complaint asks for damages for wrongful death and a survival action.

The Answer of the Sheriff's Office sets out various defenses and asserts that Deputy Jones at all times acted within the scope and course of his official duties, that his actions were reasonable

and necessary, and that his use of force was justified. The Sheriff's Office Answer also asserts provisions of the South Carolina Tort Claims Act as additional defenses.

This matter is before me on a Motion for Summary Judgment filed by the Defendant, and the Motion is supported by an Affidavit of Jeremy Jones along with the body-worn camera footage of the incident.

STANDARD OF REVIEW

Pursuant to Rule 56 of the South Carolina Rules of Civil Procedure, summary judgment is appropriate when “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 and that the moving party is entitled to a judgment as a matter of law.” *Nelson v. Piggly Wiggly Cent., Inc.*, 390 S.C. 382, 388, 701 S.E. 2d 776, 779 (Ct. App. 2010). “In determining whether any triable issues of fact exist, the evidence and all reasonable inferences there from must be viewed in the light most favorable to the non-moving party.” *Id.* “The purpose of summary judgment is to expedite the disposition of cases which do not require the services of a fact finder.” *Englert, inc. v. LeafGuard USA, Inc.*, 377 S.C. 129, 134, 659 S.E.2d 496, 498 (2008). When a Motion for Summary Judgment is made and supported as is provided in the rule, the adverse party may not rest on the mere allegations of a pleading, but by a response, affidavits or otherwise set forth facts showing a genuine issue for trial.

DISCUSSION

On October 16, 2017, Deputy Jones responded to an alarm call at 113 Putnam Road, and upon arrival, he encountered an individual later identified as James Chappell who was inside a storage shed. Deputy Jones identified himself as law enforcement, announced his reason for being present, and attempted to initiate contact with Chappell to investigate the scene. He gave verbal

commands for Chappell to come out of the shed and to show his hands. Deputy Jones was in a position of cover, as he continued to give repeated, loud and clear commands to Chappell to show his hands, but Chappell refused to comply. At one point, Deputy Jones made reference to sending in a dog, but Chappell still refused to comply. Chappell yelled from the shed that he had a hostage. He then opened the door of the shed using a female as a shield, with his left arm holding her in front of him and holding in his other hand what appeared to be a weapon of some type close to, or pressed up against, her body. Chappell used the female as a shield while backing up and moving toward a truck, refusing to let her go, and refusing to show his hands. Just as he pushed the hostage into the open door of the driver's side of the vehicle, Deputy Jones fired his weapon and then moved toward the truck. Chappell yelled from inside the truck that he had a gun. Deputy Jones then fired additional shots as he circled in front of the truck over to the passenger's side of the vehicle, and he opened the door and pulled the female out. During the encounter, two other officers were also on scene, and the body-worn camera indicates that one or more of those officers yelled, "Don't have a shot."

The Affidavit of Deputy Jones states that he believed the female hostage was in danger and that she was being taken against her will. He also verified that his body-worn camera recorded the event. There is no evidence before me that in any way contradicts or brings into question the accuracy of the body-worn camera footage of Deputy Jones which was submitted in support of the Defendant's Motion for Summary Judgment.

CLAIM OF NEGLIGENCE/GROSS NEGLIGENCE

The body-worn camera, without question, shows that Deputy Jones and other officers were on scene responding to an alarm call and that Chappell was given multiple commands to show his hands and to come out of the shed. The body-worn camera confirms that Deputy Jones did not

initiate any action but attempted to negotiate with Chappell until such time as Chappell himself opened the door of the shed and came out holding the female in front of him using her as a shield. The hostage was clearly in a position of danger and being held against her will based on the body-worn camera footage. It also shows that she was forcibly pulled to the truck and pushed into the open door on the driver's side. When she was out of the line of fire, Deputy Jones fired his weapon. Chappell can be heard yelling that he had a gun, which confirmed that he was, and continued to be, a deadly threat to the hostage and to others on the scene. The body-worn camera shows that when Deputy Jones opened the door to the truck and fired the last shot, Chappell was on top of the female's legs. She was not free, and Chappell's hands were not visible. There are no other statements or affidavits related to the incident for me to consider as to how the incident occurred other than the body-worn camera footage, and the Affidavit of Jeremy Jones.

There is no expert testimony before me suggesting that Deputy Jones' use of force was not reasonable and was not in accordance with accepted police and/or law enforcement practices. Further, there is no evidence before me that Deputy Jones violated any policy, protocol or General Order of the Sheriff's Office. There is no issue of fact in dispute that is material for purposes of Summary Judgment in this matter.

A party is entitled to Summary Judgment when there is no genuine issue of material fact and when the evidence entitles them to judgment as a matter of law. Here, the body-worn camera is a real time and reliable account of the incident.

The Complaint alleges that Deputy Jones' actions amount to negligence and gross negligence in his use of force. I have considered all of the evidence before me and the arguments of counsel, and I find as a matter of law that the actions of Deputy Jones were without question reasonable, necessary and well within the parameters of the law. In no way was he, or the hostage,

the aggressor, nor did he, or she, initiate the action which brought about the need to use force. Deputy Jones was restrained and attempted to negotiate with Chappell up until the point in time where he had to engage in order to protect and free the female hostage who was, by all reasonable perception, clearly in danger of serious bodily harm and/or possibly death. Deputy Jones even exposed himself to greater harm by leaving a point of cover to rescue the victim who was being abducted by Chappell, who was armed. Deputy Jones' use of force was certainly commensurate to the threat posed to him and the hostage in these circumstances.

In ruling on Summary Judgment, it is of course necessary to give the non-moving party the benefit of any reasonable inferences from the evidence. In this case, from the record before me, there is no reasonable inference that can be drawn other than that this was a reasonable, necessary and lawful use of force by Deputy Jones. His actions were in fact heroic. The Plaintiff cannot point to any evidence to give rise to an issue of fact to support any claim and/or allegation that Deputy Jones was negligent and/or grossly negligent at the time and date of this incident.

TORT CLAIMS ACT EXCEPTION

The Sheriff's Office has also asserted the South Carolina Tort Claims Act and several exceptions from liability as additional defenses. S.C. Code Ann. §15-78-60 (6) provides for immunity for the Sheriff's Office for the failure to provide or the method of providing police protection. See *Wells v. City of Lynchburg*, 331 S.C. 296, 501 S.E.2d 746 (Ct. App. 1988) and *Huggins v. Metts*, 371 S.C. 621, 640 S.E.2d 465 (S.C. Ct. App. 2006).

Section 15-78-60 (20) provides immunity when another party who is not an employee of a government entity commits a criminal act. Here, the actions of Chappell at the point in time when force was used amount to "criminal actions" which trigger this immunity.

Further, §15-78-60 (25) also provides immunity except when there is proof of gross negligence. Gross negligence under the Tort Claims Act is a conscious failure to exercise due care or a failure to exercise even slight care. See *Jackson v. S.C. Department of Corrections*, 301 S.C. 125, 390 S.E.2d 467 (1989).

The Plaintiff's Complaint makes reference to allegations as to a failure to have in place proper and adequate policies, procedures and protocols for law enforcement officers. There is nothing in the record to support this allegation and/or to create any issue of fact. Section 15-78-60 (4) provides immunity for the Sheriff's Office as to the adoption of "written policies." Further, there is no evidence that Deputy Jones violated any policy and/or general order of the Sheriff's Office by his actions in the course of this incident.

The Complaint also makes allegations as to a failure to properly train. There is nothing in the record before me to give rise to any issue of fact as to any failure to train, lack of training and/or need for additional training.

The Sheriff's Office is entitled to immunity in this case pursuant to the South Carolina Tort Claims Act.

CAUSATION

The Defendant in its Answer has further denied that Deputy Jones' actions were the proximate cause of the damages claimed in the Complaint. Based on a review of the body-worn camera, Deputy Jones responded to the Plaintiff's active aggression of taking and holding a female hostage and attempting to abduct her. It is incumbent upon the Plaintiff to meet the element of causation, and based upon the record before me, there is no genuine issue of fact from which it can be inferred that burden has been met.

DEFENSE OF A THIRD PARTY

Furthermore, even to analyze this claim based on the principles of self-defense and/or defense of a third party, as a matter of law, the Defendant is entitled to Summary Judgment based on these facts. Deputy Jones was responding to an alarm call as a law enforcement officer. Neither the victim nor Deputy Jones brought about the need to use force. There was a reasonable fear of death and/or bodily harm to the hostage and to Deputy Jones. Based on Chappell's actions, Deputy Jones' response was proportionate to the perceived threat of harm, and even viewed in hindsight, his actions were reasonable and justified. See *State v. Long*, 325 S.C. 59, 480 S.E.2d 62 (1997).

CONCLUSION

I find and conclude that the Plaintiff has not made a sufficient showing that there is a genuine issue of material fact to preclude Summary Judgment for the Sheriff's Office. I find that there is no genuine issue of material fact as to the allegation that Deputy Jones was negligent or grossly negligent or that his use of force was unreasonable. I further find that there is no issue of fact as to causation to give rise to liability for the actions of Deputy Jones, and I find that there are immunities in the Tort Claims Act which also bar this suit.

Alternatively, I also find that Deputy Jones was justified in using force to defend a third party and himself.

Accordingly, the Defendant's Motion for Summary Judgment is hereby granted, and the Plaintiff's Complaint is dismissed with prejudice.

IT IS SO ORDERED.

G.D. Morgan, Jr.
Resident Circuit Judge

Greenville, South Carolina
Dated: _____



Greenville Common Pleas

Case Caption: Stephanie Chappell , plaintiff, et al vs. Jeremy Eugene Jones ,
defendant, et al
Case Number: 2019CP2306009
Type: Order/Summary Judgment

So Ordered

G.D. Morgan Jr.