

RECEIVED

Nov 06 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM AIKEN COUNTY
Court of Common Pleas

Eugene C. Griffith, Jr., Circuit Court Judge

Appellate Case No. 2024-000592

Cassiopia Rhoads..... Respondent-Appellant,

v.

Aiken County Sheriff’s Office..... Appellant-Respondent.

MOTION FOR A PARTIAL STAY

Respondent-Appellant Cassiopia Rhoads (“Rhoads”) hereby moves for a partial stay, asking this Honorable Court to hold in abeyance the appeals pertaining to the Trial Court’s initial post-trial order, which has been superseded by a subsequent order. Rhoads asks this Honorable Court to stay the parties’ cross-appeals that were taken on April 11, 2024 (and pertaining to a litany of issues within the Trial Court’s first post-trial order entered on March 12, 2024) and initially hear only the appeal taken with regard to the Trial Court’s final post-trial order from August 19, 2024. In this final post-trial order, the Trial Court granted Appellant-Respondent Aiken County Sheriff’s Office’s (“ACSO’s) motion to reconsider and granted a JNOV, thereby vacating and effectively mooting the entirety of the many rulings contained within its initial post-trial order from March 12, 2024. As discussed below, staying the cross-appeals pertaining to the initial post-trial order will add efficiency to the appellate process.

Rhoads submits, for the time being, this Honorable Court should hear solely the subject of the Trial Court’s final order from August 19, 2024, wherein approximately ten months after a week-long jury trial ending in a \$950,000 verdict in Rhoads’ favor, the Trial Court issued a JNOV that set aside the jury’s verdict, specifically vacated all of its prior post-trial rulings, and dismissed Rhoads’ case. As set forth in the order from August 19, 2024 (the ruling that Rhoads asks be sole matter heard on appeal at this time), the Trial Court took this monumental action based on a determination that Rhoads’ claims against the governmental entity for gross negligence relating her treatment as a pre-trial detainee were wholly barred as a consequence of her having previously settled a medical malpractice claim against a private healthcare provider. The Trial Court’s aforementioned ruling centered around an errant interpretation and misapplication of the following provision within the South Carolina Tort Claims Act:

A settlement or judgment in an action or a settlement of a claim under this chapter constitutes a complete bar to any further action by the claimant against an employee or governmental entity by reason of the same occurrence.

S.C. Code §15-78-70(d).

The Trial Court ruled that because Rhoads’ medical malpractice causes of action against the private defendant had been brought within the same lawsuit that asserted a Tort Claims Act cause of action against the ACSO, her prior settlement with the private healthcare provider should be viewed as having been “in an action...under [the TCA],” was part of the same occurrence, and was therefore served to bar her claims against the governmental defendant. Rhoads asserted to the contrary, arguing, *inter alia*, that, regardless of the claims being asserted within the same lawsuit, her causes of action against the private healthcare provider were never (and could not have been) brought under the TCA. She asserted that in order to be applicable, the plain language of S.C. Code §15-78-70(d) required that a prior settlement: (1) have been made with the State or one of its political subdivisions; (2) involve a claim made under the TCA; and (3) relate to the same

occurrence. Rhoads maintains that not one of those three qualifications were met by the settlement of her medical malpractice claims with the private healthcare providers.

Without a reversal on that issue, the litany of trial issues addressed/contained in the initial post-trial order (which was specifically vacated by the final post-trial order) are secondary and effectively irrelevant for the time being. As such, Rhoads asks for a stay regarding the parties' cross-appeals that were taken on the Trial Court's initial post-trial order. Rhoads submits that the complicated procedural history below, which is somewhat tortuous, demonstrates why this Honorable Court should stay the parties' cross-appeals taken from the presently vacated post-trial order entered on March 12, 2024.

PERTINENT PROCEDURAL HISTORY

1. On May 11, 2020, via the submission of a Notice of Intent to File Suit (pursuant to S.C. Code §15-79-125), Respondent-Appellant Rhoads ("Rhoads") first pursued claims against Southern Health Partners, Inc. ("SHP"), which is a private healthcare provider, based out of Tennessee, that contracted with Aiken County to provide health services for detainees/inmates at the Aiken County Detention Center ("ACDC").

2. On September 3, 2020, pursuant to S.C. Code §15-79-125, Rhoads' counsel and SHP's counsel conducted a pre-suit mediation. The mediation was unsuccessful, and the mediator (Karl A. Folkens) subsequently issued and filed a Proof of Alternative Dispute Resolution with the Aiken County Clerk of Court. Appellant-Respondent Aiken County Sheriff's Office ("ACSO") was neither a party to that NOI, nor a participant in the pre-suit mediation.

3. On November 17, 2020, Rhoads filed suit in this matter. In this pleading, the named defendants included: (1) SHP; (2) Robert J. Williams, M.D.¹; (3) Michael E. Hunt, in his official

¹ Dr. Williams was the private physician who SHP hired to be the "responsible physician" for medical services at the Detention Center.

and representative capacity as Aiken County Sheriff; and (4) Aiken County, operating as the Aiken County Detention Center.

4. At a mediation held on July 20, 2023, Rhoads resolved all her claims against Defendants SHP and Williams (collectively “SHP”). Thereafter, the sole remaining claims/cause of actions were for gross negligence relating to the conduct of the correctional officers, employed by the Aiken County Sheriff’s Department, working at the ACDC. By agreement/stipulation, the Aiken County Sheriff’s Office (“ACSO”) was substituted in the place of Defendant Michael E. Hunt, in his official and representative capacity as Aiken County Sheriff and Defendant Aiken County, operating as the Aiken County Detention Center. The case caption was similarly amended. Rhoads also agreed/stipulated that ACSO could not be vicariously liable for negligent or grossly negligent acts or omissions alleged to have been committed by SHP’s medical providers and that if any liability were to be found against ACSO and any damages awarded, such liability would be controlled by the South Carolina Tort Claims Act and its requirement for a showing of “gross negligence” and its statutory cap limitation on actual damages and exclusion of punitive damages.

5. Beginning on October 9, 2023, Rhoads’ cause of action of gross negligence against ACSO proceeded to be tried before an Aiken County jury, with the Honorable Eugene C. Griffith, Jr. presiding as the trial judge.

6. After a week of trial, on October 12, 2023, the jury returned a verdict in Rhoads’ favor, specifically finding ACSO’s correctional officers had been grossly negligent, and awarding Rhoads’ \$950,000.00 in actual damages.

7. Following trial, both Rhoads and ACSO timely filed post-trial motions.

8. ACSO’s post-trial motions included the following:²

² ACSO’s post-trial motions also sought: (1) to apply a set-off from Rhoads’ prior settlement with SHP; and (2) to reduce of the verdict to \$300,000 pursuant to the damages cap set forth in the TCA. Rhoads’s did not object to the application of a set-off and did not argue the caps set forth in

- (I) a motion for a judgment notwithstanding the verdict (JNOV), which argued:
 - (A) Rhoads had failed to prove gross negligence; and
 - (B) because Rhoads previously settled her claims against SHP, S.C. Code §15-78-70(d) wholly bar her claims against ACSO from continuing.
- (II) a motion for a new trial absolute, which argued the Trial Court had incorrectly:
 - (A) charged the jury regarding the particular duty of care owed by ACSO and its correctional officers;
 - (B) allowed an improper “closing argument about [SHP’s] unwillingness to pay for hospital care and its ramifications;”
 - (C) allowed the introduction of “inadmissible hearsay evidence of future medical costs;”
 - (D) disallowed the introduction of evidence pertaining to Rhoads having used drugs after the events at issue; and
 - (E) disallowed the introduction of evidence that Rhoads was currently incarcerated.”³
- (III) a motion for a new trial under the thirteenth juror doctrine, arguing that the evidence does not justify the verdict.

9. Rhoads’ post-trial motions included the following:⁴

- (I) a motion for costs related to having to call an expert (Dr. Edward O’Bryan) to trial to prove causation as a consequence of ACSO’s denial of Rule 36 requests for admission pertaining to causation; and
- (II) a motion for interest and costs arising from an unaccepted \$250,000.00 offer of judgment that had been filed on March 31, 2022.

10. With regard to ACSO’s post-trial motions, an order filed March 12, 2024, the Trial Court:

- (I) denied the motion for a judgment notwithstanding the verdict (JNOV); (II) denied the motion for a new trial absolute; (III) denied the motion for a new trial under the thirteenth juror doctrine;

TCA should not be applied. In an order entitled, “*Order Reducing Verdict to Statutory*,” **these motions were granted and have not been appealed by Rhoads.**

³ Although Respondent-Appellant Rhoads is no longer incarcerated, she was in South Carolina Department of Corrections’ custody at the time of the trial in October of 2023.

⁴ Rhoads’ post-trial motions also sought a determination that there had been multiple occurrences of gross negligence. In an order entitled, “*Order Reducing Verdict to Statutory Cap*,” which noted the verdict form had not asked for the jury to determine whether there had been multiple occurrences of gross negligence, **the motion was denied and has not been appealed by Rhoads.**

(IV) granted the motion seeking to apply a setoff from the prior settlement with SHP; and (V) granted the motion to reduce of the verdict to \$300,000 pursuant to the damages cap set forth in the SCTCA.

11. With regard to Rhoads' post-trial motions, an order filed March 12, 2024, the Trial Court: (I) granted an award of costs relating to Rhoads' having to call Dr. O'Bryan at trial as a consequence of requests for admissions that ACSO had denied; (II) awarded Rhoads interest stemming from the offer of judgment interest; however, in so doing, the Trial Court calculated the award based on the judgment amount and not the verdict amount as stated in both S.C. Code § 15-35-400(B) and Rule 68, SCRCP.

12. On March 22, 2024, ACSO filed a motion to reconsider the post-trial order.

13. On April 11, 2024, ACSO served a Notice of Appeal of the Trial Court's original post-trial order from March 12, 2024. The Notice of Appeal also stated ACSO was appealing "all pre-trial rulings, trial rulings, and post-trial rulings issued by Circuit Court Judge Eugene C. Griffith, Jr." Seemingly, ACSO sought to appeal every single ruling/order made by the Trial Court.

14. At this same time, April 11, 2024, ACSO also notified the Court of Appeals that its motion to reconsider (which ACSO had filed on March 22nd) the initial post-trial order from March 12th was still pending.

15. On April 11, 2024, Rhoads also filed a Notice of Appeal of the Trial Court's initial post-trial order from March 12th.

16. On April 19, 2024, ACSO filed a Motion for Stay of Appeal and Limited Remand with the Court of Appeals, seeking such because of ACSO's motion to reconsider that was still pending with the Trial Court.

17. On July 1, 2024, the Court of Appeals issued an order granting Appellant-Respondent ACSO's motion to stay and partial remand.

18. On August 19, 2024, the Trial Court issued an order granting ACSO's motion to reconsider, wherein Judge Griffith granted ACSO a JNOV based on its argument that, because Rhoads had previously settled her claims against SHP, S.C. Code §15-78-70(d) wholly barred her claims against ACSO from continuing. The order (with emphasis added) stated:

In sum, after careful consideration of the issue, the Court concludes that the Defendant Aiken County Sheriff's Office is entitled to the dismissal of the Plaintiff's gross negligence cause of action on the basis of Section 15-78-70(d).

IT IS, THEREFORE, ORDERED that the Motion to Alter or Amend Order and/or Motion to Reconsider filed by the Defendant Aiken County Sheriff's Office is granted.

IT IS FURTHER ORDERED that the Defendant's JNOV motion is hereby granted for the reasons stated herein, and the judgment and **the Orders previously entered by the Court addressing the parties' post-trial motions are vacated**. The Plaintiff's gross negligence cause of action against the Defendant Aiken County Sheriff's Office is dismissed with prejudice.

In summary, this new post-trial order essentially nullified the jury's verdict and effectively mooted all of the Trial Court's prior rulings within the order entered on March 12, 2024.

19. On August 29, 2024, Rhoads filed a motion to reconsider with the Trial Court, therein asking for reconsider of its new order vacating the prior post-trial order and granting a JNOV.

20. On September 17, 2024, Rhoads filed and served a Second/Subsequent Notice of Appeal of the Trial Court's post-trial order from August 19, 2024, and notifying the Court of Appeals that Rhoads' motion to reconsider that post-trial order was still pending.

21. On September 18, 2024, the Court of Appeals sent both parties correspondence stating: (a) the appeals had been consolidated due to the receipt of multiple notices of appeal; (b) assigning the party designations; and (c) the appeal would be held in abeyance pending the Trial Court's resolution of the second Rule 59(e) SCRPC motion relating to the granting of a JNOV.

22. On September 20, 2024, Rhoads notified the Court of Appeals, although the trial transcript had been requested and received, the transcript for the post-trial motions hearing (held on June 13,

2024) was still outstanding and the court reporter had requested an extension to finalize the transcript.

23. On September 29, 2024, the Trial Court issued its order denying Rhoads' motion to reconsider.

24. On October 19, 2024, Rhoads received the completed transcript from the post-trial motions hearing from June 13, 2024 and, shortly thereafter, notified the Court of Appeals of her receipt of the transcript.

25. On October 21, 2024, ACSO filed, with the Court of Appeals, a Notice of Conditional Cross-Appeal, which seemingly relates to the very same issues ACSO appealed back on April 11, 2024 (pertaining to the Trial Court's original post-trial orders from March 12, 2024). ACSO's filing of a "conditional appeal" seems to suggest that it too believes the cross-appeals relating to the order from March 12, 2024, should be stayed for the time being.

26. On October 29, 2024, Rhoads sought certiorari with the South Carolina Supreme Court, asking the Court to hear the appeal to determine the novel question of whether, under S.C. Code §15-78-70(d), a settlement with a private defendant could bar other claims from continuing against a governmental entity. To the best of Rhoads' knowledge, that motion has not yet been ruled upon.

CONCLUSION AND ARGUMENT FOR A PARTIAL STAY

At present, the parties' cross-appeals taken from the initial post-trial order of March 12, 2024, as well as Rhoads' appeal of second post-trial order from August 19, 2024, are all consolidated into a single appeal. However, the final post-trial order from August 19th vacated and mooted all of the Trial Court's rulings in the first order from March 12th. If the August 19th order stands, the issues addressed in the March 12th order need not be addressed. Respondent-Appellant Rhoads submits, for efficiency and the benefit of all involved, only the single legal issue contained in the Trial Court's order from August 19th (whether S.C. Code §15-78-70(d) should be interpreted

such that Rhoads' settlement with SHP would wholly bar the continuation of her claims against ACSO from continuing) should be heard at this time. Such a stay would set aside all of the matters dealing with the evidence presented at trial, jury charges, award of costs relating to requests for admission, etc. (this myriad of issues set forth in Paragraphs 8 and 9 of the Procedural History section above) and limit the issue to be decided by this Honorable Court solely to the application and interpretation of S.C. Code §15-78-70(d). In other words, this Honorable Court would address only if Rhoads' settlement of her medical malpractice claims against SHP (a private, for-profit corporation) qualified as a settlement of claim under the Tort Claims Act and served to extinguish/bar her claim relating to different acts/omission of gross negligence by ACSO's correctional officers.

Should Respondent-Appellant Rhoads prevail and this Honorable Court reverse the Trial Court's order from August 19th—determining the settlement with SHP did not prevent her claims against ACSO from continuing—the order from March 12th would effectively be revived and thus the partial stay lifted and, at that point, the arguments relating to March 12th order should be briefed and presented to the Court of Appeals.

November 6, 2024
Columbia, South Carolina

s/ Francis M. "Brink" Hinson, IV
Francis M. "Brink" Hinson, IV (SC Bar # 74917)
HHP LAW GROUP, LLC
924 Gervais Street
Columbia, SC 29201
E: brink@hhplawgroup.com
T: 803.400.8277

—and—

Patrick J. McLaughlin (SC Bar # 73675)
WUKELA LAW FIRM
P.O. Box 13057
Florence, SC 29504-3057
E: patrick@wukelalaw.com
T: 843.669.5634

Attorneys for Respondent-Appellant Rhoads



HHP LAW GROUP

Francis M. "Brink" Hinson, IV
Attorney at Law
Direct: 803-381-0108
brink@hhplawgroup.com

November 6, 2024

Via Hand Delivery and Email

The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina court of Appeals
Email: ctappfilings@sccourts.org

RECEIVED
Nov 06 2024
SC Court of Appeals

Re: Cassiopia Rhoads v. Aiken County Sheriff's Office
Civil Action No.: 2020-CP-02-02238
Appellate Case No.: 2024-000592
Motion for Partial Stay

Dear Ms. Kitchings,

Pursuant to Section (b)(2) of the Supreme Court's Order Methods of Electronic Filing and Service Under Rule 262 of the South Carolina Appellate Court Rules (as amended May 6, 2022), please find enclosed for filing Respondent-Appellant Rhoads' Motion for Partial Stay in connection with the above-referenced matter. Additionally enclosed is a check in the amount of \$50.00 for the filing fee.

By copy of this letter, I am serving a copy on all counsel of record by email only pursuant to Section (d)(1) of the same Supreme Court Order.

If you have any questions or require any additional information, please do not hesitate to give my office a call.

With kind regards, I remain,

Sincerely yours,

Francis M. "Brink" Hinson, IV

Enclosure (*as noted above*)

cc: Andrew F. Lindemann, Esq. (*via email at andrew@ldlawsc.com*)
Patrick J. McLaughlin, Esq. (*via email at patrick@wukelalaw.com*)

Physical Address
924 Gervais St.
Columbia, SC 29201

HHP LAW GROUP, LLC
HINSON, HILLER, & PADGET
803.400.8277 / www.hhplawgroup.com

Mailing Address
P.O. Box 83
Columbia, SC 29202