

STATE OF SOUTH CAROLINA

) IN THE COURT OF COMMON PLEAS

COUNTY OF RICHLAND

) Civil Action No.: 2021-CP-40-01484

) Lisa Wallas,

) Plaintiff,

) v.

) Richland County Sheriff's Department
) and Casey Elizabeth Signorino,

) Defendants.

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SC Court of Appeals

STATE OF SOUTH CAROLINA

) IN THE COURT OF COMMON PLEAS

COUNTY OF RICHLAND

) Civil Action No.: 2021-CP-40-01971

) Lisa Wallas, as Natural Guardian of Ainsley
) Wallas, Minor Child,

) Plaintiff,

) v.

) Richland County Sheriff's Department, South
) Carolina Department of Social Services,
) Richland County Department of Social
) Services, and Casey Elizabeth Signorino,

) Defendants.

ORDER

This matter comes before this Court by way of cross-motions for summary judgment filed in the above actions by the Plaintiff and the Defendants. A hearing on these motions was held via virtual courtroom on June 21, 2024. Appearing at the time and presenting oral arguments were S. Jahue Moore, Esq., counsel for the Plaintiff, and Robert D. Garfield, Esq., counsel for the Defendants Richland County Sheriff's Department ("RCSD")¹ and Casey Elizabeth Signorino. For

¹ This Court recognizes that the Defendant RCSD is not a legal entity of the State; that the proper entity is the Sheriff of Richland County in his official capacity; and that his office constitutes a governmental

the reasons discussed herein, this Court grants the Defendants' motions for summary judgment and denies the Plaintiff's motions for summary judgment.

DEFENDANTS' MOTIONS FOR SUMMARY JUDGMENT

I. FACTUAL BACKGROUND

This case centers on the Plaintiff's minor child Ainsley, who was 15 years of age at the relevant times. Ainsley is the daughter of the Plaintiff Lisa Wallas and Terry Wallas.

Taking the facts in a light most favorable to the Plaintiff,² on Friday, May 22, 2020, the Plaintiff reported Ainsley as a runaway. On Tuesday, May 26, 2020, two reporters advised the RCSD that Ainsley had been located. These reporters were Ainsley's high school teacher and a parent of Ainsley's friend. RCSD Deputy Signorino responded to Dutch Fork High School in Richland County and made contact with Ainsley, as well as these reporters. In their interview, Ainsley told Signorino that, *inter alia*, she ran away from home on Friday (four days earlier) because she was being abused. After the interview, Signorino returned to her patrol vehicle and contacted both the Plaintiff and Terry Wallas via a three-way teleconference. Signorino advised Ainsley's parents that she was present with their daughter at the high school and that Ainsley was claiming that the Plaintiff had been abusing her. The Plaintiff and Terry Wallas stated that they were divorced and, pursuant to a court order, the Plaintiff had primary custody of Ainsley while her father, Terry Wallas, had visitation rights. With this, the Plaintiff stated that she wanted Ainsley to return home. Deputy Signorino attempted to mediate the situation by advising the parents of their two options. Either Ainsley could be placed into Emergency Protective Custody ("EPC") or otherwise placed with a friend or relative.³ Not receptive to these options, the parents agreed, albeit

entity as set forth pursuant to the South Carolina Tort Claims Act, S.C. Code Ann. § 15-78-10, *et seq.* and is under the jurisdiction of the Act.

² These facts are derived from both of the Plaintiff's Amended Complaints filed April 27, 2021, the Plaintiff's motions for summary judgment filed May 12, 2022, and Signorino's body worn camera video. *See e.g. Scott v. Harris*, 550 U.S. 372 (2007) (holding that in considering deputy's motion for summary judgment, courts had to view the facts in the light depicted by videotape which captured events underlying plaintiff's claim)

³ To the extent that the Plaintiff is advancing a negligent misrepresentation theory, such a claim would involve Signorino's intercession in these circumstances; her making erroneous representations as to matters of law and EPC statutes; and the Plaintiff having so relied to her detriment. This type of claim would fail. *See Carolina Chloride, Inc. v. Richland Cnty* 394 S.C. 154, 164, 714 S.E.2d 869, 87374 (2011) (holding that a member of the public has no legal right to rely solely upon the representations of county personnel and should consult the official record to determine the legal zoning classification)

reluctantly, for Ainsley to temporarily stay with her father until the underlying issues had been resolved.

In this action. The Plaintiff sets forth causes of action for intentional infliction of emotional distress, abuse of process, malicious prosecution, negligence,⁴ and breach of fiduciary duty. *See generally* Am. Comps. Her theory concerns Ainsley having run away from home and ultimately taken into the possession of the RCSD. Despite being required by South Carolina statutory law, RCSD did not notify the Department of Social Services (“DSS”). Instead, Signorino took it upon herself to place the child with a non-custodial parent. The Plaintiff points to the relevant statute in which DSS is charged with investigating, prosecuting and adjudicating issues related to the safety of children or the removal from the custody of parents. Moreover, law enforcement assists DSS in this process, it is not the role of law enforcement in the placement of a minor child. The Plaintiff contends that in this instance, Ainsley was improperly placed with then non-custodial parent even without notifying DSS. Consequently, Ainsley remained housed for weeks away from the custodial parent. *Id.*, *see also*, Pl’s Motions for Summary Judgment, filed May 12, 2022.

II. LEGAL STANDARD

Summary judgment must be granted 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.” Rule 56(c), SCRCP. In determining whether there are any genuine issues of material fact, the court must view all ambiguities and reasonable inferences from the evidence “in the light most favorable to the non-moving party.” *Osborne v. Adams*, 346 S.C. 4, 7, 550 S.E.2d 319, 321 (2001);

of property); *see also AMA Mgmt. Corp.*, 309 S.C. at 223, 420 S.E.2d at 874. (1992) (“The duty of care is not a duty to take every possible care, still less is it a duty to be right; it is the familiar duty to exercise that care a reasonable man would take in the circumstances.”); *see also Associated Receivables Funding, Inc. v. Dunlap, Inc.*, 2024 WL 3058402, at *7 (S.C. Ct. App. June 20, 2024) (“There is no liability for casual statements, representations as to matters of law, or matters which plaintiff could ascertain on his own in the exercise of due diligence.” *Id.* (quoting *AMA Mgt. Corp. v. Strasburger*, 309 S.C. 213, 223, 420 S.E.2d 868, 874 (Ct. App. 1992)).

⁴ The Plaintiff’s first cause of action is the state law tort of intentional infliction of emotional distress. S.C. Code Ann. § 15-78-30(f) provides that a “loss” recoverable under the Tort Claims Act” does not include the intentional infliction of emotional harm.” Therefore, there is no remedy for the alleged intentional infliction of emotional distress and the Defendants are entitled to summary judgment on this cause of action. *See Gore v. Dorchester Cnty. Sheriff’s Off.*, 442 S.C. 438, 900 S.E.2d 423 (2024) (holding that reckless infliction of emotional distress was not “loss” actionable under SCTCA).

see also *City of Hardeeville v. Jasper Cnty.*, No. 2022-001266, 2024 WL 3434583, at *3 (S.C. Ct. App. July 17, 2024)

III. ANALYSIS / SOVEREIGN IMMUNITY

A. Generally: South Carolina Tort Claims Act

Prior to the decision of the South Carolina Supreme Court in *McCall v. Batson*, 285 S.C. 243, 329 S.E.2d 741 (1985), governmental entities and their employees were protected by sovereign immunity. In *McCall*, the Supreme Court abolished sovereign immunity. However, in the following year, the South Carolina General Assembly enacted the South Carolina Tort Claims Act (“SCTCA”) “which reinstated sovereign immunity for the State and its political subdivisions with certain exceptions.” *Jinks v. Richland County*, 349 S.C. 298, 563 S.E.2d 104, 108 (2002), reversed on other grounds, 538 U.S. 456 (2003). “The Tort Claims Act provides a limited waiver of governmental immunity and delineates the conditions upon which a claimant may pursue actions against the State and its political subdivisions.” *Id.* The SCTCA “removes the common law bar of sovereign immunity in certain circumstances, but only to the extent mandated by the Act.” *Bayle v. S.C. Department of Transportation*, 344 S.C. 115, 542 S.E.2d 736, 739 (Ct. App. 2001).

B. Immunity under S.C. Code Ann. §15-78-60(4)

S.C. Code Ann. §15-78-60(4) provides that governmental entities are not liable for a loss resulting from the “adoption, enforcement, or compliance with any law or failure to adopt or enforce any law, whether valid or invalid, including, but not limited to, any charter, provision, ordinance, resolution, rule, regulation, or written policies.”

The Plaintiff’s legal position is set forth in her own motions for summary judgment:

The RCSD was only authorized to take the child to EPC and to transport the child to a location agreed upon by DSS. As DSS was never notified, there is a clear violation of S.C. Code Section 63-7-620(b)(2). In short, the RCSD violated South Carolina Law which as a matter of law is actionable and equates to gross neglect. There is simply no legitimate excuse as to why DSS was not notified and involved with the placement of this child. No 72-hour hearing was ever had because the RCSD did not report the matter to DSS. The Probable Cause Hearing required by the Code indicates that a hearing must be had within seventy-two (72) hours to establish probable cause. No such hearing ever took place. The procedure [*sic*] were not followed and were ignored by the Sheriff’s Department. Liability should be granted as a matter of [l]aw.

See Pl’s Motions for Summary Judgment, filed May 12, 2022.

The Defendants raise this exception to the waiver of immunity concerning the issue as to whether the RCSD enforced or complied with any law or otherwise failed to enforce any law, including certain statutory provisions. This Court agrees that this exception applies.

The Plaintiff's negligence theory is based on the allegation that there had been a "clear violation" of statutory laws which govern EPC provisions. In her Amended Complaints, the Plaintiff alleges that "Richland County DSS was not notified by Officer Signorino or any other individual from RCSD as required per S.C. Code Section 63-7-630."⁵ See Am. Comps., ¶ 15. Specifically, that the RCSD failed to comply with, or enforce EPC statutory laws involving the notification of DSS and the institution of a probable cause hearing within 72 hours. Consequently, the Plaintiff contends that "[n]o such hearing ever took place. The [EPC statutory] procedure[s] were not followed and were ignored by the RCSD." See Pl's Motions for Summary Judgment, filed May 12, 2022. Notably, in the Plaintiff's Amended Complaints, she alleges that the Defendants engaged in a "process not proper with the regular conduct of the proceeding. [] Defendants had a legal obligation to the Plaintiff to perform a fair and just investigation and failed to conduct a proper or suitable investigation." See Am. Comps., ¶¶ 18, 19.

Since the Plaintiff's entire theory of her case involves the RCSD's failure to adopt, enforce, and/or comply with EPC statutory protocols as set forth in § 63-7-630, this exception under the SCTCA shields the Defendant RCSD, as the participating governmental entity from liability.

C. Immunity under S.C. Code Ann. §15-78-60(6)

Per S.C. Code Ann. §15-78-60(6) of the SCTCA: "[t]he governmental entity is not liable for a loss resulting from ... [] the failure to provide (or) *the method of providing police or fire protection*."⁶ S.C. Code Ann. § 15-78-60(6) (Emphasis added).

⁵ S.C. Code Ann. § 63-7-630 provides:

When an officer takes a child into emergency protective custody under this subarticle, the officer immediately shall notify the department. The department shall notify the parent, guardian, or other person exercising temporary or permanent control over the child as early as reasonably possible of the location of the child unless there are compelling reasons for believing that disclosure of this information would be contrary to the best interests of the child.

⁶ In *Wells v. City of Lynchburg*, 331 S.C. 296, 501 S.E.2d 746 (Ct. App. 1998), this Court recognized that a scrivener's error resulted in the omission of the word "or." After looking at the legislative history, this Court concluded that sovereign immunity under § 15-78-60(6) extends to "the failure to provide or the method of providing police or fire protection." *Id.*, at 750.

The Plaintiff alleges in her Amended Complaints that Signorino was negligent “in the investigation of the reported incident, in the treatment of the Plaintiff and her child, and in the removal of the child from the Plaintiff’s custody.” *See* Am. Comps., ¶ 16. Moreover, Signorino “risk[ed] the safety of the minor child and the Plaintiff by removing the child from Plaintiff’s custody against the Court’s order [and] without proper reason.” *Id.*

The Plaintiff’s Amended Complaints address the methods that Signorino, a law enforcement officer, chose to utilize in providing Ainsley with police protection. This would concern Signorino’s various methods in protecting Ainsley from an allegedly abusive situation, including conducting interviews, performing a background investigation, and, according to the Plaintiff, ultimate removal of the child from (what appeared to be in) harm’s way.

Thus, any actions and/or inactions on the part of Signorino or any Sheriff’s employee -- whether negligent or not -- fall squarely within the purview of § 15-78-60(6), because the Plaintiff’s pleading specifically alleges a loss which resulted from Signorino’s methods in providing police protection.

D. Immunity under S.C. Code Ann. § 15-78-60(23)

Moreover, under the provisions of the SCTCA, the Defendant RCSD enjoys absolute immunity for malicious prosecution. One of the six elements that the Plaintiff needs to prove is “the institution or continuation of original judicial proceedings.” In virtually identical language, S.C. Code Ann. § 15-78-60(23) provides absolute immunity for the “institution or prosecution of any judicial or administrative proceeding.” *See* S.C. Code Ann. § 15-78-60(23). Therefore, because an element of a malicious prosecution cause of action falls squarely within an immunity provision, a governmental entity enjoys absolute immunity for this cause of action.

This very issue was adjudicated in the case of *McCoy v. City of Columbia*, 929 F.Supp.2d 541 (D.S.C. 2013), where District Judge Joseph F. Anderson Jr. ruled that a malicious prosecution claim against a municipality was barred by S.C. Code Ann. § 15-78-60(23). Judge Anderson held:

The City also contends that it is immune from liability for McCoy’s malicious prosecution claim under the SCTCA’s immunity relating to “the institution or prosecution of a judicial proceeding.” S.C. Code Ann. § 15-78-60(23). The Magistrate Judge recommended that the court grant the City’s motion for summary judgment on this issue because McCoy’s cause of action for malicious prosecution plainly falls within this express exception. The court agrees.

929 F.Supp.2d at 567, n. 10.

The United States District Court, by and through various District Court judges, has ruled in accordance with Judge Anderson's finding and, specifically, that the governmental entity enjoys immunity for malicious prosecution under the provisions of the Act. *See Terrell v. City of Spartanburg*, No. 7:17-CV-2738-BHH, 2018 WL 4775579 (D.S.C. Oct. 3, 2018) ("The City is immune from liability for malicious prosecution under the South Carolina Tort Claims Act. S.C. Code Ann. § 15-78-60(23) ... "); *see also Thompson v. City of Columbia*, No. CV 3:05-1605-CMC, 2005 WL 8164911, at *4 (D.S.C. July 21, 2005) ("It is fairly clear from the plain language of the statute, particularly § 15-78-60(23), that the legislature intended to exclude claims for malicious prosecution from the waiver of immunity for governmental entities in the Tort Claims Act."); *see also Palmer v. Santanna*, No. 2:16-CV-3350-PMD-MGB, 2018 WL 1477600, at *5 (D.S.C. Mar. 27, 2018) ("The Town of Summerville is immune from liability on this claim (as a result of) S.C. Code Ann. § 15-78-60(23); ... While the Court recognizes that Plaintiffs experienced significant consequences as a result of Mr. Palmer's arrest and detention, the Defendants are nonetheless immune from suit ..."); *see also Brown v. Dorchester Cty. S.C.*, No. 2:16-CV-01311-MBS-MGB, 2017 WL 9673618, at *6 (D.S.C. Nov. 29, 2017) ("[T]he crux of Plaintiff's claim against Defendant is that the criminal charges against him were maintained for many months after the Solicitor's Office was made aware that probable cause was lacking. Such a claim falls squarely within § 15-78-60(1) and § 15-78-60(23).")

Because of these reasons, the Plaintiff's malicious prosecution claim is dismissed.

IV. ANALYSIS / EMPLOYEE IMMUNITY

The SCTCA "constitutes the exclusive remedy for any tort committed by an employee of a governmental entity." S.C. Code Ann. § 15-78-70(a). Further, an employee of a governmental entity is immune from liability for tortious acts committed within the scope of his official duties. Such an employee who allegedly commits a tort while acting within the scope of his official duty is not liable except for actual fraud, actual malice, intent to harm, or a crime involving moral turpitude. S.C. Code Ann §15-78-70(a) and (b).

There are no allegations that the Defendant Signorino was acting outside the scope of her official duties and none of the exceptions set forth in subsection (b) are applicable with respect to her. As a result, Defendant Signorino in her individual capacity is entitled to employee immunity under S.C. Code Ann. § 15-78-70(a) and (b) and the Plaintiff's claims against her are dismissed as a matter of law.

Moreover, South Carolina statutory law further immunizes Signorino, a police officer and mandatory reporter, as she participated in an investigation and/or judicial proceedings resulting from the reporters. *See* S.C. Code Ann. § 63-7-390 (“A person required or permitted to report pursuant to Section 63-7-310 or who participates in an investigation or judicial proceedings resulting from the report, acting in good faith, is immune from civil and criminal liability which might otherwise result by reason of these actions. In all such civil or criminal proceedings, good faith is rebuttably presumed.”) As a sustaining basis for dismissal, this Court notes that the Plaintiff has made no showing that would overcome the presumption of Signorino’s good faith in this matter.

PLAINTIFF’S MOTIONS FOR SUMMARY JUDGMENT

As this Court considers the Plaintiff’s motions for summary judgment, and in taking the evidence in the light most favorable to the Defendants, this Court finds that the above § 15-78-60 exceptions under the SCTCA shields the Defendant RCSD (a/k/a Sheriff Lott) from liability. Consequently, since the Sheriff (as the constitutional officer employing Signorino at the relevant times) is entitled to absolute sovereign immunity, then no genuine issue as to any material fact exists, and the Defendants are entitled to a judgment as a matter of law.

CONCLUSION

Based upon the foregoing reasons, **IT IS THEREFORE ORDERED** that the Defendants’ motions for summary judgment are **GRANTED** in both matters [C/A Nos. 2021-CP-40-01484 and 2021-CP-40-01971] and that the Plaintiff’s causes of action against the Defendants are hereby dismissed with prejudice. **IT IS FURTHER ORDERED** that the Plaintiff’s motions for summary judgment in both matters [C/A Nos. 2021-CP-40-01484 and 2021-CP-40-01971] are **DENIED**.

IT IS SO ORDERED.

The Honorable Diane Schafer Goodstein
Circuit Court Judge

Columbia, South Carolina

_____, 2024



Richland Common Pleas

Case Caption: Lisa Wallas vs Richland County Sheriffs Department , defendant, et al
Case Number: 2021CP4001484
Type: Order/Summary Judgment

It is so Ordered!

s/Diane S. Goodstein

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