

STATE OF SOUTH CAROLINA )  
COUNTY OF ANDERSON )

IN THE COURT OF COMMON PLEAS )  
TENTH JUDICIAL CIRCUIT )

Jason Wolfe, )

C/A NO. 2023-CP-04-02442 )

Plaintiff, )

ORDER )

v. )

Anderson County Sheriff's Office and )  
Security Transport Services, Inc. )

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Defendants. )

SC Court of Appeals

This matter is before me on Defendant Anderson County Sheriff's Office's (Anderson County) Motion for Summary Judgment. A hearing was held on November 18, 2024 at which time Steven M. Pruitt, Esquire, appeared on behalf of Defendant Anderson County; William T. Young, III, Esquire, appeared on behalf of Plaintiff; and Matthew K. Harrison, Esquire, appeared on behalf of Defendant Security Transport Services, Inc. For the reasons set forth below, the Court grants Defendant Anderson County's Motion and dismisses Plaintiff's action against them.

Plaintiff was incarcerated at the Anderson County Detention Center (hereinafter "ACDC") which is operated by Defendant Anderson County Sheriff's Office from December 3 until December 11, 2021. Plaintiff in his Complaint claims that he was not provided medications Lyrica, Lithium, Duloxetine, and Klonopin while at ACDC. Plaintiff filed this action on November 28, 2023. Plaintiff passed away on August 18, 2024.

The South Carolina Tort Claims Act states that "[t]he State, an agency, a political subdivision, and a governmental entity are liable for their torts in the same manner and to the same extent as a private individual under like circumstances, subject to the limitations upon liability and damages, and exemptions from liability and damages, contained herein." *Id.* § 15-78-40 (Supp. 2014). Section 15-78-60 of the South Carolina Tort Claims Act states:

The governmental entity is not liable for a loss resulting from: . . . (25) responsibility or duty including but not limited to supervision, protection, control, confinement, or custody of any student, patient, prisoner, inmate, or client of any governmental entity, except when the responsibility or duty is exercised in a grossly negligent manner . . . . Id. § 15-78-60 (25) (emphasis added).

Defendant Anderson County argues that Plaintiff's action should be dismissed because he has failed to assert any facts which would imply gross negligence on the part of this Defendant. The Court of Appeals has held that the South Carolina Tort Claims Act "removes the common law bar of sovereign immunity in certain circumstances, but only to the extent mandated by the Act." Summers v. Harrison Constr., 298 S.C. 451, 454, 381 S.E.2d 493, 495 (Ct. App. 1989). The Court went on to state that "the provisions relating to limitations on and exemptions to liability are to be liberally construed in favor of limiting the liability of the state." Id.; see also S.C. Code Ann. § 15-78-20(f) ("The provisions of this chapter establishing limitations on and exemptions to the liability of the State, its political subdivisions, and employees, while acting within the scope of official duty, must be liberally construed in favor of limiting the liability of the State.").

Gross negligence has been defined as, "the failure to exercise slight care"; 'the intentional, conscious failure to do something which it is *incumbent* upon one to do or the doing of a thing intentionally that one ought not to do'; and 'a relative term' meaning 'the *absence of care that is necessary under the circumstances.*'" Duncan v. Hampton County Sch. Dist. No. 2, 335 S.C. 535, 544, 517 S.E.2d 449, 453 (Ct. App. 1999) (emphasis in original) (quoting Hollins v. Richland County Sch. Dist. One, 310 S.C. 486, 490, 427 S.E.2d 654, 656 (1993)). When the evidence regarding gross negligence supports but one reasonable inference, the question becomes a matter of law for the court to resolve. Clyburn v. Sumter County Sch. Dist. No. 17, 317 S.C. 50, 53, 451 S.E.2d 885, 887-88 (1994).

Defendant Anderson County submitted the affidavit of Dr. Qing Liu, the Chief Medical

Officer of Mediko, Inc., a company that provides health care services to jails and prisons. Dr. Liu stated in his affidavit that he began working with Mediko in September 2017 and has treated thousands of inmate patients since that time. He has specialized training in anesthesiology and pain management. Dr. Liu stated that Mediko was the health care contractor for ACDC in December 2021 while Plaintiff was at ACDC. Dr. Liu did not personally treat Plaintiff, but reviewed the medical records from Plaintiff's incarceration at ACDC and is familiar with the policies and procedures followed by Mediko staff in December 2021. Dr. Liu attached a copy of Plaintiff's medical records to his affidavit.

Dr. Liu stated in his affidavit that Plaintiff was 43 years old when he was incarcerated at ACDC on December 3, 2021. Plaintiff claims in his Complaint that he did not receive four medications, Duloxetine HCL 30 mg, Lithium Carbonate 300 mg, Klonopin, and Lyrica 300 mg, while he was incarcerated at ACDC. Dr. Liu stated that two of the medications, Klonopin and Lyrica, carry a high risk of addiction and abuse due to effects on the central nervous system. Klonopin is a benzodiazepine, a depressant that produces sedation and hypnosis. Lyrica is a nerve pain medication. Klonopin and Lyrica are, respectively, Schedule VI and V controlled substances because of their high potential for abuse and/or dependency.

Dr. Liu stated that when inmates arrive at the jail with these medications, the medications are typically discontinued unless there is an acute need that cannot be addressed through alternative treatments. Also, inmates who present with pre-existing mental illnesses are scheduled for appointments with mental health staff within 14 days of arrival.<sup>1</sup> Dr. Liu stated that in this case, Mediko staff reviewed Plaintiff's medications and, consistent with the need to keep all inmates safe from substance abuse and diversion, refused the Klonopin and Lyrica. On December 3, 2021,

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<sup>1</sup> Plaintiff was released from ACDC eight days after arrival and before an appointment with mental health staff occurred.

Mediko nurse Nora Heaton, LPN, signed off on a Home Medication List reflecting this refusal.

On December 4, 2021, James Walker, MD, ordered that Plaintiff's vital signs be monitored twice daily for five days to ensure he remained stable following the discontinuation of Klonopin and Lyrica. Also, Dr. Walker prescribed a tapering dose of Ativan to address any potential withdrawal symptoms due to the discontinuation of Klonopin. Like Klonopin, Ativan is a benzodiazepine, but it has a lesser potency and is more effective at treating withdrawal symptoms.

Dr. Liu stated that based on the records, the allegation in the Complaint that Plaintiff received only "some of his medication some of the time" is inaccurate. As evidenced by the Medication Administration Record ("MAR"), Plaintiff received all scheduled doses of Duloxetine (once daily) and Lithium Carbonate (twice daily). Plaintiff also received the tapering dose of Ativan as prescribed. Dr. Liu noted that from the MAR Plaintiff did not take his evening dose on December 5, 2021 and stated this was perhaps due to refusal.

Dr. Liu stated the allegation in the Complaint that Plaintiff experienced "extreme and significant withdrawals while in the custody of ACSO" was also unsupported by the evidence. Plaintiff's vital signs remained stable throughout the week he was at ACDC and there are no notes to suggest he voiced any complaints to medical staff. On December 11, 2021, Plaintiff was released to the custody of the State Prisoner Transfer Officer for transfer to a correctional facility in Kansas. At the time of his departure, Mediko staff released his medications to the State Prisoner Transfer Officer. Dr. Liu stated that based upon his education, training and experience, and upon his review of the medical records, it is his opinion that the medical staff at ACDC acted appropriately in treating Plaintiff and that Plaintiff received appropriate medical care throughout his incarceration in December 2021. He further stated that he saw no basis from the medical records to conclude that Plaintiff suffered any harm from the discontinuation of Lyrica and/or Klonopin.

The Court agrees that Plaintiff has failed to assert facts to show gross negligence, “the failure to exercise slight care.” As shown by Dr. Liu’s affidavit and Plaintiff’s medical records, Plaintiff was provided all doses of Lithium and Duloxetine while at ACDC. Furthermore, it was ordered that Plaintiff’s vital signs be monitored twice daily for five days to ensure he remained stable following the discontinuation of Klonopin and Lyrica.

Plaintiff was not provided Lyrica, a Schedule V controlled substance, due to its high risk of addiction and abuse due to its effects on the central nervous system. On these facts, Plaintiff fails as a matter of law to show absence of slight care. Plaintiff was provided Lithium and Duloxetine. He was also provided Ativan as a substitute for Klonopin and was not provided Lyrica due to its high risk of addiction and abuse. In addition, though Plaintiff was not provided Klonopin, he was given a tapering dose of Ativan to address any potential withdrawal symptoms due to the discontinuation of Klonopin. Based on the records and Dr. Liu’s affidavit, there was a conscious decision made not to provide the medication. Further, he stated that in his opinion Plaintiff did not suffer any harm from the discontinuation of Lyrica. Plaintiff fails to show “the failure to exercise slight care” and his action must be dismissed.

Plaintiff has failed to meet his burden in this action. As discussed above, Plaintiff must show gross negligence, the absence of slight care. The provision of Ativan to address withdrawal issues would be slight care as would monitoring Plaintiff’s vital signs twice daily to ensure he remained stable following the discontinuation of Klonopin and Lyrica. Defendant also argued that Plaintiff’s action be dismissed for failure to provide expert testimony. In light of the Court’s ruling, the Court did not address the issue of expert witness testimony.

Based on the above, Defendant's Motion for Summary Judgment is granted and Plaintiff's action is dismissed.

IT IS SO ORDERED.

The Honorable R. Scott Sprouse  
Judge, Tenth Judicial Circuit

Anderson, South Carolina



Anderson Common Pleas

**Case Caption:** Jason Wolfe VS Anderson County Sheriffs Office , defendant, et al

**Case Number:** 2023CP0402442

**Type:** Order/Summary Judgment

s/R. Scott Sprouse, Judge #2752

Tenth Judicial Circuit