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SC Court of Appeals

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Circuit Court for the Fifth Judicial Circuit

Diane Goodstein, Circuit Court Judge

Appellate Case No. 2024-001940

Lisa Wallas, Appellant,

vs.

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

AND

Lisa Wallas, as Natural Guardian of A.W., Minor Child, Appellant,

vs.

Richland County Sheriff's Department, South Carolina Department of Social Services, Richland County Department of Social Services and Casey Elizabeth Signorino, Defendants, of which Richland County Sheriff's Department and Casey Elizabeth Signorino are the Respondents.

APPELLANT'S INITIAL BRIEF

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STATEMENT OF ISSUES ON APPEAL

- I. The Court erred in granting summary judgment in favor of the Respondents by misapplying the South Carolina Tort Claims Act exceptions to governmental immunity.
- II. The Court erred in holding that the actions of Respondent Casey Elizabeth Signorino and the Richland County Sheriff's Department were protected by sovereign immunity despite clear statutory violations of S.C. Code § 63-7-620 and § 63-7-630 regarding emergency protective custody procedures.
- III. The Court erred in concluding that the actions of Richland County Sheriff's Department did not constitute gross negligence or a breach of statutory duty in failing to notify the Department of Social Services and unlawfully placing a minor with a non-custodial parent.

STANDARD OF REVIEW

In reviewing a grant of summary judgment, this court should apply the same standard as that employed by the trial court under Rule 56(c), SCRPC. *Doe v. Wal-Mart Stores, Inc.*, 393 S.C. 240, 244, 711 S.E.2d 908, 910 (2011). When reviewing an order that grants a party summary judgment, the appellate court employs the same standard as applied in the trial court under SCRPC 56. *Wachovia Bank, N.A. v. Coffey*, 404 S.C. 421, 425, 746 S.E. 2nd 35, 37 (2013) (citations omitted).

The purpose of summary judgment is to expedite disposition of cases which do not require the services of a fact finder. *Dawkins v. Fields*, 354 S.C. 58, 580 S.E.2d 433 (2003). Because it is a drastic remedy, summary judgment should be cautiously invoked to ensure that a litigant is not improperly deprived of a trial on disputed factual issues. *Helena Chem. Co. v. Allianz Underwriters Ins. Co.*, 357 S.C. 631, 594 S.E.2d 455 (2004).

Summary judgment is ripe only if there is no genuine issue as to any material fact. Rule 56(c), SCRPC. “In determining whether any triable issue of fact exists, the evidence and all inferences which can reasonably be drawn therefrom must be viewed in the light most favorable to the nonmoving party.” *Quail Hill, LLC v. City of Richland*, 387 S.C. 223, 235, 692 S.E. 2nd 499, 505, (2010) (citations omitted).

Summary judgment is not appropriate where further inquiry into the facts of the case is desirable to clarify the application of the law. *Brockbank v. Best Capital Corp.*, 341 S.C. 372, 534 S.E.2d 688 (2000); *Hawkins v. City of Greenville*, 358 S.C. 280, 594 S.E.2d 557 (Ct.App.2004). Summary judgment should not be granted even when there is no dispute as to evidentiary facts if there is disagreement concerning the conclusion to be drawn from those facts. *Moriarty v. Garden Sanctuary Church of God*, 341 S.C. 320, 534 S.E.2d 672 (2000);

“In determining whether any triable issue of fact exists, the evidence and all inferences which can reasonably be drawn therefrom must be viewed in the light most favorable to the nonmoving party.” *Grimsley v. S.C. Law Erft Div.*, 415 S.C. 33, 40, 780 S.E.2d 897, 900 (2015).

“The party seeking summary judgment has the burden of clearly establishing the absence of a genuine issue of material fact.” *Bennett v. Inv'rs Title Ins. Co.* , 370 S.C. 578, 588–89, 635 S.E.2d 649, 654 (Ct. App. 2006).

All ambiguities, conclusions, and inferences arising from the evidence must be construed most strongly against the moving party. *Schmidt v. Courtney*, 357 S.C. 310, 592 S.E.2d 326 (Ct.App.2003).

“In determining whether any triable issues of fact exist for summary judgment purposes, the evidence and all the inferences [that] can be reasonably drawn from the evidence must be viewed in the light most favorable to the nonmoving party.” *Hancock v. Mid-S. Mgmt. Co* , 381 S.C. 326, 329–30, 673 S.E.2d 801, 802 (2009).

Moreover, “in cases applying the preponderance of the evidence burden of proof, the non-moving party is only required to submit a mere scintilla of evidence in order to withstand a motion for summary judgment.” *Hancock* , 381 S.C. at 330, 673 S.E.2d at 803. “At the summary judgment stage of litigation, the court does not weigh conflicting evidence with respect to a disputed material fact.” *S.C. Prop. & Cas. Guar. Ass'n v. Yensen* , 345 S.C. 512, 518, 548 S.E.2d 880, 883 (Ct. App. 2001).

“[B]ecause summary judgment is a drastic remedy, it should be cautiously invoked to ensure a litigant is not improperly deprived of a trial on disputed factual issues.” *Huffman v. Sunshine Recycling, LLC*, 417 S.C. 514, 790 S.E.2d 401 (S.C. App., 2016).

STATEMENT OF THE CASE

This appeal arises from the trial court's order granting Respondent's Motion for Summary Judgment. This appeal seeks to have the trial court's order granting Respondent's Motion for Summary Judgment reversed.

Appellants initiated the above referenced action with the filing of a Summons and Complaint in the Richland County Court of Common Pleas on March 31, 2021. (Summons and Complaint dated March 31, 2021; R. ___ p. ____). Appellants subsequently amended their complaint (Amended Summons and Complaint dated April 27, 2021; R. ___ p. ____). Appellants Complaint asserted causes of action against Respondents for intentional infliction of emotional distress, abuse of process, malicious prosecution, negligence, and breach of fiduciary duty. (Amended Summons and Complaint dated April 27, 2021; R. ___ p. ____). Respondent's South Carolina Department of Social Services filed a Motion to Dismiss on May 28, 2021. (Motion to Dismiss dated May 28, 2021; R. ___ p. ____).

Appellant filed a Motion for Default Judgment against Respondent Richland County Sheriff's Department on June 11, 2021. (Motion for Default Judgment dated June 11, 2021; R. ___ p. ____). Appellant's withdrew the Motion to Withdraw against Respondent Richland County Sheriff's Department on June 17, 2021. (Motion to Withdraw dated June 17, 2021; R. ___ p. ____). Respondent's Richland County Sheriff's Department and Casey Signorino filed their Answer and Answer to Amended Complaint on June 28, 2021. (Answer to Amended Complaint of RCSD & Casey Signorino dated June 28, 2021; R. ___ p. ____). Respondents Richland County Sheriff's Department and filed an Answer to 2nd Amended Answer to Complaint on July 27, 2021. (Answer to 2nd Amended Answer to Complaint dated July 25, 2021; R. ___ p. ____).

Respondent's South Carolina Department of Social Services filed a Memorandum in Support of its Motion to Dismiss on January 20, 2022. Appellant's filed a Motion for Summary Judgment on May 12, 2022. Respondent's Richland County Sheriff's Department and Case Signorio filed a Motion for Summary Judgment on June 13, 2022. An Order to continue Appellant's and Respondent's Motion for Summary Judgment's was filed on October 23, 2023. (Order dated October 10, 2023; R. ____ p. ____).

Appellant's sent letter to Judge Goldstein on July 29, 2024. (Letter to Judge Goldstein dated July 29, 2024). Appellant's submitted a proposed Order denying Respondents Motion for Summary Judgment to the Court. (Proposed Order dated July of 2024; R. ____, p. ____).

On October 21, 2024 the Court granted Respondents' motion for Summary Judgment on the basis of Respondent was shielded as a governmental entity from liability under the South Carolina Tort Claims Act and provided absolute immunity pursuant to S.C. Code Ann. § 15-78-60(4), 15-78-60(6), and 15-78-60(23) (Order dated October 21, 2024; R. ____ p. ____). Appellant's timely filed their Notice of Appeal with the Court of Appeals on November 14, 2024. (Notice of Appeal dated November 13, 2024; R. ____ p. ____).

STATEMENT OF THE FACTS

This case involves the Appellant's minor child Ainsley, who was 15 years of age at the relevant times. (Summons and Complaint dated March 31, 2021; R. ____ p. ____). Ainsley is the daughter of the Appellant Lisa Wallas and Terry Wallas. (Summons and Complaint dated March 31, 2021; R. ____ p. ____). Appellant had primary custody of the minor child with the father, Terry Wallas, having visitation rights set forth by the Family Court's Order. (Summons and Complaint dated March 31, 2021; R. ____ p. ____).

On Friday, May 22, 2020, the Appellant reported Ainsley as a runaway. Summons and Complaint dated March 31, 2021; R. ____p. ____). On Tuesday, May 26, 2020, two reporters advised the RCSD that Ainsley had been located. Summons and Complaint dated March 31, 2021; R. ____p. ____). These reporters were Ainsley's high school teacher and a parent of Ainsley's friend. Richland County Sheriff's Office (Hereinafter referred as "RCSD") Deputy Signorino responded to Dutch Fork High School in Richland County and made contact with Ainsley, as well as these reporters. (Order of the Honorable Diane S. Goodstein dated October 21, 2024; R. ____p. ____). In their interview, Ainsley told Deputy Signorino that she ran away from home on Friday (four days earlier) because she was being abused. (Deposition Transcript of Casey Elizabeth Signorino dated December 8, 2021; R. ____p. ____).

After the interview, Deputy Signorino returned to her patrol vehicle and contacted both the Appellant and Terry Wallas via a three-way teleconference. (Order of the Honorable Diane S. Goodstein dated October 21, 2024; R. ____p. ____). Deputy Signorino advised Ainsley's parents that she was present with their daughter at the high school and that Ainsley was claiming that the Appellant had been abusing her. (Order of the Honorable Diane S. Goodstein dated October 21, 2024 dated; R. ____p. ____). The Appellant and Terry Wallas stated that they were divorced and, pursuant to a court order, the Appellant had primary custody of Ainsley while her father, Terry Wallas, had visitation rights. (Summons and Complaint dated March 31, 2021; R. ____p. ____). The Appellant informed Deputy Signorino that she wanted Ainsley to return home.

Despite being required by South Carolina statutory law, RCSD did not notify the Department of Social Services ("DSS"); (Amended Summons and Complaint dated April 27, 2021; R. ____p. ____). (Deposition Transcript of Casey Elizabeth Signorino dated December 8, 2021; R. ____p. ____). No probable cause hearing was held regarding the displacement. (Deposition

Transcript of Casey Elizabeth Signorino dated December 8, 2021; R. ___p. ___). Instead, Deputy Signorino took it upon herself to place the child with a non-custodial parent. (Deposition Transcript of Casey Elizabeth Signorino dated December 8, 2021; R. ___ p. ___). No probable cause hearing was held regarding the displacement.

The Appellant 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. (Amended Summons and Complaint dated April 27, 2021; R. ___p. ___).

Deputy Signorino improperly placed the minor Ainsley with her father who was then non-custodial parent even without notifying DSS. (Amended Summons and Complaint dated April 27, 2021; R. ___p. ___); (Deposition Transcript of Casey Elizabeth Signorino dated December 8, 2021; R. ___p. ___). Consequently, Ainsley remained housed for weeks away from the custodial parent. (Appellant’s Motions for Summary Judgment dated May 12, 2022; R. ___p. ___).

ARGUMENT

I. THE CIRCUIT COURT ERRED IN APPLYING SOVEREIGN IMMUNITY UNDER THE SOUTH CAROLINA TORT CLAIMS ACT

The trial court erred in holding that the Respondents were entitled to immunity under S.C. Code Ann. § 15-78-60(4) and (6). The South Carolina Tort Claims Act (hereinafter referred to as “SCTCA”) provides a limited waiver of sovereign immunity, allowing liability for governmental entities in instances of gross negligence. The actions of the Respondents Richland County Sheriff’s Department (hereinafter “RCSD”) and Deputy Signorino in failing to comply with statutorily required Emergency Protective Custody (“EPC”) procedures and disregarding Appellant’s custodial rights constitute gross negligence, barring immunity under the SCTCA.

Respondents unilaterally placed Ainsley Wallas with her non-custodial parent, Terry Wallas, without notifying the Department of Social Services (“DSS”) as required by law. (Deposition Transcript of Casey Elizabeth Signorino dated December 8, 2021; R. ___p. ___). In her deposition Respondent Deputy Signorino further testified she was fully aware that DSS was not informed nor did a hearing ever occur. (Deposition Transcript of Casey Elizabeth Signorino dated December 8, 2021; R. ___p. ___). The Respondents knowingly proceeded without ever having the required hearings pursuant to state law. (Deposition Transcript of Casey Elizabeth Signorino dated December 8, 2021; R. ___p. ___). This deviation from legally mandated procedures was not a discretionary act protected by the SCTCA, but rather a direct violation of statutory obligations designed to protect minor children and parental rights. As such, the trial court’s application of sovereign immunity was erroneous and should be reversed.

Therefore, the Circuit Court erred in applying sovereign immunity under the South Carolina Tort Claims Act.

II. THE COURT ERRED IN NOT PRECLUDING IMMUNITY AS RESPONDENTS VIOLATED SOUTH CAROLINA LAW

Pursuant to S.C. Code Ann. § 63-7-620, when law enforcement takes a minor into emergency protective custody, DSS must be immediately notified, and a probable cause hearing must be conducted within seventy-two (72) hours. S.C. Code Ann § 63-7-620. When a child is put in emergency protective custody the local department of Social Services (DSS) *must* be notified immediately. S.C. Code Ann. § 63-7-610. The child must be in the physical possession of the Department of Social Services within two hours. Placement of the child must be in a location approved by both SCDSS and law enforcement. S.C. Code Ann. § 63-7- 620(B)(2).

In this case, Respondents RCSD and Deputy Signorino failed to notify DSS, failed to initiate the judicial process required under state law, and unlawfully placed Ainsley with her non-custodial parent. (Deposition Transcript of Casey Elizabeth Signorino dated December 8, 2021; R. ___p. ___). Respondents knew DSS was never informed and a hearing never took place but took no further measures in accordance with state statute. Respondents knowingly, willfully, and recklessly proceeded against the statute. These statutory violations amount to gross negligence, which is an exception to the SCTCA's immunity provisions.

Respondent's actions in overriding the legally mandated process directly undermined the Appellant's custodial rights and placed Ainsley in a situation that lacked judicial oversight. Law enforcement officers do not have the authority to independently determine the placement of a minor without DSS involvement or a court order. By failing to comply with these procedural safeguards, the Respondents acted beyond the scope of their lawful authority, precluding the application of sovereign immunity.

The child was placed without notifying DSS and the child remained gone for weeks from the custodial parent. As DSS was never notified, there is a clear violation of S.C. Code §63-7-620(B)(2) and §63-7-610(B). Furthermore, pursuant to S.C. Code 63-7-630, when an officer takes a child into emergency protective custody under this subarticle, the officer immediately shall notify the department. S.C. Code Ann. § 63-7-630. 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. *Id.*

The Respondent's 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. The Respondents have failed to show these actions were within the scope of the officer's duty, as this is a serious question of fact in this case. The Motion for Summary Judgment should have been denied.

Therefore, the Respondent's violated South Carolina law thus precluding immunity.

III. APPELLANT'S CLAIMS OF NEGLIGENCE AND ABUSE OF PROCESS RAISE MATERIAL FACTUAL DISPUTES PRECLUDING SUMMARY JUDGMENT

The Circuit Court failed to recognize that the Appellant's claims of negligence and abuse of process present genuine issues of material fact. The question of whether the actions of Respondents RCSD and Deputy Signorino amounted to a failure to exercise reasonable care is a factual determination that should be resolved by a jury, not on summary judgment.

Appellant contends that Respondents RCSD and Deputy Signorino's unauthorized placement of Ainsley, without due process or proper investigation, constitutes negligence. Furthermore, the abuse of process claim arises from Respondents' improper use of legal authority to effectuate a result contrary to the intended purpose of EPC statutes. These claims involve contested factual issues, including the motivations and discretionary decisions of the Respondents, which cannot be resolved as a matter of law. As such, summary judgment was improperly granted, and the case should be remanded for trial.

Therefore the Appellant's claims of negligence and abuse of process raise material factual disputes precluding summary judgment.

IV. THE COURT ERRED IN GRANTING RESPONDENTS MOTION FOR SUMMARY JUDGMENT AS THE RESPONDENTS VIOLATED STATE STATUTE BY FAILING TO HAVE A PROBABLE CAUSE HEARING.

In South Carolina after a child is placed in emergency protective custody a probable cause hearing must be held within seventy-two hours of the time a child was taken into protective custody. S.C. Code Ann. § 63-7-710(a). At the hearing, the court shall determine if there is probable cause for the child to have been taken into emergency protective custody and whether the probable cause remains at the time of the hearing. S.C. Code Ann. §63-7-710(C).

In this case the required probable cause hearing within the seventy-two hour window never took place because the Sheriff's Department did not report the matter to DSS. (Amended Summons and Complaint dated April 27, 2021; R. ___p. ___); (Transcript of Record dated June 21, 2024; R. ___p. ___). Due to the lack of this hearing the placed child was retained in custody for weeks more than necessary. (Transcript of Record dated June 21, 2024; R. ___p. ___). The Respondents have failed to show these actions were within the scope of the officer's duty, as this is a serious question of fact in this case, Respondent's Motion for Summary Judgment should have been denied.

Therefore the Court erred in granting Respondent's Motion for Summary Judgement as the Respondents violated the state statue by failing to have a probable cause hearing.

CONCLUSION

For the foregoing reasons, the trial court's order granting summary judgment should be reversed. The Respondents' actions constitute gross negligence and statutory violations that preclude sovereign immunity under the SCTCA. Additionally, the material factual disputes concerning negligence and abuse of process warrant resolution by a jury. Accordingly, Appellant-

Appellant respectfully requests that this Court reverse the trial court's ruling and remand the case for further proceedings.

Respectfully submitted,

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