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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM AIKEN COUNTY
Eugene C. Griffith, Jr., Circuit Court Judge

Appellate Case No. 2024-000592
Case No. 2020-CP-02-2238

Cassiopia Rhoads, ... Respondent-Appellant,

v.

Aiken County Sheriff's Office, ... Appellant-Respondent.

RETURN IN OPPOSITION TO MOTION TO INCLUDE NEW MATTER NOT ORIGINALLY PRESENTED TO THE TRIAL COURT IN THE RECORD ON APPEAL

The Respondent-Appellant Cassiopia Rhoads has filed a motion to include in the Record on Appeal what she concedes to be "new materials for consideration which did not exist at the time the trial court rendered its decision being appealed by Rhoads." *See*, Motion, p. 1. Specifically, Rhoads seeks to include in the Record on Appeal an order approving a settlement in an entirely unrelated wrongful death and survival action in the case of *Crow v. Hunt*, Civil Action Number 2020-CP-02-01434. The Appellant-Respondent Aiken County Sheriff's Office opposes that motion as legally frivolous.

Using mandatory language, Rule 210(c), SCACR, provides that "[t]he Record *shall not* … include matter which was not presented to the lower court or tribunal." Rule 210(c), SCACR. (Emphasis added). Likewise, Rule 209(b), SCACR, provides that "the Designation may only propose to include portions of the transcript, pleadings, orders, exhibits, or other materials which may be properly included in the Record on Appeal [See Rule 210(c)]." Rule 209(b), SCACR. In her motion, Rhoads readily admits that she seeks to include in the Record on Appeal "new materials" which were never presented to the trial court and, in fact, were not even in existence when the trial court issued the order on appeal. On the basis of Rule 210(c) alone, Rhoads' motion should be denied.

Moreover, Rhoads' reason for wanting to present the settlement order from the *Crow* case is legally frivolous. Rhoads is attempting to argue that the settlement by the Aiken County Sheriff's Office in the *Crow* case should somehow be treated as an "admission" that the Sheriff's Office "knows" the JNOV order in the *Rhoads* case was entered in error. Specifically, "Rhoads argues the fact that the same party, represented by the same counsel, *under the same procedural and factual scenario*, would settle a claim after obtaining the ruling currently being appealed, is relevant in showing that ACSO knows the ruling being appealed in this matter was error." *See*, Motion, p. 2. (Emphasis added). Frankly, it is absurd to argue that the Sheriff's Office's litigation strategy or decision-making in one case that was settled is somehow binding on another case that was tried, or that the litigation strategy or decision-making is at least "relevant evidence."[1] Not surprisingly, Rhoads presents this Court with no authority to support that notion.

[1] Contrary to Rhoads' claim, such "evidence" is not subject to judicial notice at any rate.

Nonetheless, without presenting any evidence, Rhoads baldly proclaims that the two cases present "the exact same procedural and factual scenario," which cannot be farthest from the truth. In the current case, Rhoads was a pre-trial detainee at the Aiken County Detention Center ("ACDC") from May 3, 2019 through June 2, 2019.[2] During her thirty days at ACDC, Rhoads received repeated medical care and treatment by the medical providers working for Southern Health Partners ("SHP"), which was the medical contractor at ACDC during the relevant time period. Over the course of the thirty days, Rhoads had in excess of twenty different encounters with medical staff including Dr. Robert Williams, Nurse Donna Wright, Nurse Sherry Shutters, and others. Those medical encounters are pled in detail in Rhoads' Complaint. *See*, Complaint, ¶¶ 70-88. Moreover, as the trial court ruled,

> Here, the Defendant Sheriff's Office was sued for its alleged failure to provide appropriate medical care for the Plaintiff. While the Sheriff's Office's liability was not premised on vicarious liability for the acts or omissions of the SHP Defendants, the Plaintiff alleged that the Sheriff's Office should have sought additional care for the Plaintiff, including a referral to the hospital, in light of the insufficiencies in the care provided by the SHP Defendants. The Court agrees with the Defendant that any gross negligence by the Sheriff's Office is part of the same "unfolding sequence of events" proximately flowing from the acts or omissions by the SHP Defendants in its provision of medical care. In effect, from a causation standpoint, if the medical care provided by the SHP Defendants had met the standard of care and the Plaintiff had been properly cared for, there would have been no breach of duty on the part of the Sheriff's Office. The liability of all Defendants was inextricably linked, and as a result, this Court agrees that the liability of the SHP Defendants and the Sheriff's Office arose out of the same occurrence, thereby making Section 15-78-70(d) applicable.

See, Order Granting Defendant's Motion to Alter or Amend Order and JNOV Motion filed August 19, 2024, p. 8.

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[2] The Aiken County Detention Center is operated by the Sheriff's Office.

In sharp contrast, the case of *Crow v. Hunt*, Civil Action Number 2020-CP-02-01434, involved the suicide of the decedent, Adam Crow, within a few hours of his arrival at ACDC on May 16, 2017. When he committed suicide, Crow was in a holding cell equipped with a security camera. Crow had used a piece of paper to cover the camera lens for approximately 60 minutes before he committed suicide, and the officer working the control room did not notice that the camera lens had been covered. The case in no way involved the scope or quality of any medical care provided by SHP. In fact, it was undisputed that Crow was never seen prior to his suicide by any nurse or employee of SHP, and it was disputed whether SHP's employees knew or should have known that Crow had even been admitted into the facility. That appears to explain why SHP settled a wrongful death and survival action for the nuisance value of $25,000. Moreover, the Sheriff's Office placed no blame on SHP. The Sheriff's Office did not settle because of any issue related to the medical care provided at the Detention Center.

In sum, to highlight the dramatic factual differences between the two cases, Rhoads was a detainee for thirty days and had at least twenty encounters with SHP medical providers during that time, and the allegations against SHP were for a misdiagnosis and breach of the medical standard of care as supported by expert testimony. In *Crow*, the decedent was in the Detention Center mere hours, was still in a holding cell, and was never seen or treated by any SHP medical providers. Moreover, from a procedural standpoint, the *Rhoads* case was tried by the Sheriff's Office, and *Crow* was settled for the reasons stated. Hence, Rhoads is not being candid with the Court in stating repeatedly in her motion that the two cases presented "the exact same procedural and factual scenario." That is simply false and is legally frivolous.

For the reasons stated, the Court is respectfully asked to deny Rhoads' motion and to award the Sheriff's Office sanctions pursuant to Rule 269, SCACR, for having to respond to a

legally frivolous motion.

Respectfully submitted,

LINDEMANN LAW FIRM, P.A.

BY: *s/ Andrew F. Lindemann*

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April 3, 2025

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CERTIFICATE OF SERVICE

Pursuant to Section (d)(1) of the Supreme Court's Order Methods of Electronic Filing and Service Under Rule 262 of the South Carolina Appellate Court Rules (As Amended April 24, 2024), the undersigned employee of Lindemann Law Firm, P.A., counsel for Appellant-Respondent Aiken County Sheriff's Office, does hereby certify that service of the **Return in Opposition to Motion to Include New Matter Not Originally Presented to the Trial Court in the Record on Appeal** in the above-captioned matter was made upon all counsel of record by email only this the 3rd day of April 2025, as follows:

Francis M. Hinson, IV, Esquire
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April 3, 2025

RECEIVED
Apr 03 2025
SC Court of Appeals

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

RE: Cassiopia Rhoads v. Aiken County Sheriff's Office
Appellate Case Number: 2024-000592
Civil Action Number: 2020-CP-02-2238
Claim Number: 2020G00077
Our File Number: 333.20304

Dear Ms. Kitchings:

Pursuant to Section (b)(2)the Supreme Court's Order Methods of Electronic Filing and Service Under Rule 262 of the South Carolina Appellate Court Rules (As Amended April 24, 2024), please find enclosed for filing **Return in Opposition to Motion to Include New Matter Not Originally Presented to the Trial Court in the Record on Appeal** with regard to the above referenced appeal. By copy of this letter, I am serving copies on all counsel of record by email only pursuant to Section (d)(1) of the same Supreme Court Order.

If you have any questions, please advise. Thank you for your assistance.

Sincerely,

LINDEMANN LAW FIRM, P.A.

Andrew F. Lindemann

AFL/jac
Enclosure

cc: Francis M. Hinson, IV, Esquire *(w/ Enclosure, Via Email Only)*
Patrick J. McLaughlin, Esquire *(w/ Enclosure, Via Email Only)*