

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF BEAUFORT	)	FOURTEENTH JUDICIAL CIRCUIT
	)	
PAUL VERNON COFFMAN, JR.,	)	C/A No. 2021-CP-07-01217
	)	
Plaintiff,	)	
	)	
vs.	)	<b>ORDER</b>
	)	
TOWN OF PORT ROYAL AND	)	
KIMBERLY CARTER,	)	
	)	
Defendants.	)	
	)	
_____	)	

**RECEIVED**  
**Jun 13 2025**  
 SC Court of Appeals

This matter was before the Court on December 11, 2024 by way of Defendants’ Motion for Judgment Notwithstanding the Verdict (“JNOV”), Trial Nisi Remittitur, New Trial Absolute, or New Trial Under the 13<sup>th</sup> Juror Doctrine filed July 1, 2024.

**FACTS AND PROCEDURAL HISTORY**

The above-captioned case arises from an unlawful arrest following an incident that took place at the Sands Beach Boat Landing on July 6, 2020, and the subsequent investigation conducted by the Port Royal Police Department. The Plaintiff was eventually arrested by the Port Royal Police Department. The case proceeded to trial before a jury in Beaufort County beginning on June 17, 2024. The trial presided over by the Honorable H. Seven DeBerry. At trial, the parties disputed the existence of probable cause for Plaintiff’s arrest and Plaintiff introduced substantial evidence into the record, with the consent of the Defendants, which clearly disputed the existence of probable cause (including, e.g., testimony for Joab Dowling, Ryan Steady, testimony from the Town of Port Royal via the 30(b)(6) deposition of Captain John Griffith, and

the recorded deposition testimony of Defendant Kimberly Carter entered by consent of the parties). At the conclusion of the trial, the jury rendered a verdict awarding the Plaintiff One hundred thousand (\$100,000.00) dollars against Kimberly Carter (which included a punitive damages award of \$40,000) and Two Hundred and Fifty Thousand (\$250,000.00) dollars against the Town of Port Royal.

After careful consideration, the Court finds as follows:

**DEFENDANTS' MOTION FOR JUDGMENT NOTWITHSTANDING THE VERDICT**  
**(JNOV)**

In determining JNOV, the Court must view “the evidence and all reasonable inferences in the light most favorable to the nonmoving party.” *RFT Mgmt. Co. v. Tinsley & Adams L.L.P.*, 399 S.C. 322, 331–32, 732 S.E.2d 166, 171 (2012) citing *Elam v. S.C. Dep't of Transp.*, 361 S.C. 9, 602 S.E.2d 772 (2004). Further, a “motion for JNOV may be granted only if no reasonable jury could have reached the challenged verdict.” *Id.* at 332 citing *Gastineau v. Murphy*, 331 S.C. 565, 568, 503 S.E.2d 712, 713 (1998). The Court must deny a motion for JNOV “if the evidence yields more than one reasonable inference or its inference is in doubt.” *Id.* citing *Strange v. S.C. Dep't of Highways & Pub. Transp.*, 314 S.C. 427, 445 S.E.2d 439. In short, the Court “must examine the evidence in the light most favorable to the non-moving party and determine ‘whether a reasonable trier of fact could draw only one conclusion from the evidence.’” *Brown v. CSX Transp., Inc.*, 18 F.3d 245, 248 (4th Cir. 1994) citing *Townley v. Norfolk & W. Ry.*, 887 F.2d 498, 499 (4th Cir.1989).

Furthermore, qualified immunity is a doctrine which shields government actors from liability if they establish either that (1) the plaintiff’s allegations fail to make out a violation of a constitutional right, or (2) the right at issue was not clearly established at the time of the alleged misconduct.” *Henry v. Purnell*, 619 F.3d 323, 332 (4th Cir. 2010) (citing *Pearson v. Callahan*, 555 U.S. 223 (2009)), rev’d on other grounds by reh’g en banc, 652 F.3d 524 (4th Cir. 2011). In

short, the doctrine “protects government officials ‘from liability for civil damages insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known.’” *Pearson*, 555 U.S. at 231 (quoting *Harlow v. Fitzgerald*, 457 U.S. 800, 818 (1982)). To resolve a qualified immunity defense, a court must “decide whether the facts that a plaintiff has alleged . . . or shown . . . make out a violation of a constitutional right.” *Pearson*, 555 U.S. at 232. The court must then determine “whether the right at issue was ‘clearly established’ at the time of defendant's alleged misconduct.” *Id.* Due to the fact that “qualified immunity is an affirmative defense, the defendant bears the burden of proving the challenged act was objectively reasonable in light of the existing law” *Camden v. Hilton*, 360 S.C. 164, 177–78, 600 S.E.2d 88, 95 (Ct. App. 2004) citing *Varrone v. Bilotti*, 123 F.3d 75, 78 (2d Cir. 1997).

The Court finds upon review of the facts and evidence that the Defense has failed to meet their burden with regard to Qualified Immunity. The facts and circumstances as a whole, in totality, support a finding of this court that the Officer’s actions were not objectively reasonable.

In addition, and after review of the Defendants’ motion this Court finds in viewing the evidence in the light most favorable to the nonmoving party, that the verdict reached by the jury in this matter was reasonable when considering the testimony and evidence. As a result, the Court respectfully denies the Motion for JNOV.

#### **DEFENDANTS’ MOTION FOR NEW TRIAL NISI REMITTUR**

In determining trial nisi remittitur, the Court “can review a jury award for excessiveness.” *Atlas Food Sys. & Servs., Inc. v. Crane Nat. Vendors, Inc.*, 99 F.3d 587, 593 (4th Cir. 1996). A trial judge “must distinguish between awards that are merely unduly liberal or conservative and awards that are actuated by passion, caprice, or prejudice’ ” *Jolly v. Fisher Controls Int’l, LLC*, 443 S.C. 511, 523, 905 S.E.2d 380, 387 (2024) citing *Riley v. Ford Motor Co.*, 414 S.C. 185, 192, 777 S.E.2d 824, 828 (2015) (quoting *Allstate Ins. Co. v. Durham*, 314 S.C. 529, 530, 431

S.E.2d 557, 558 (1993)). Furthermore, the Court must give “substantial deference” to the jury’s determination of damages *Id.* at 523. The Court must also give “compelling reasons . . . [to] justify invading the jury’s province in the matter” *Id.* at 524 quoting *Pelican Bldg. Centers of Horry-Georgetown, Inc. v. Dutton*, 311 S.C. 56, 61, 427 S.E.2d 673, 676 (1993).

After review of the record, the Court finds that the jury award was not excessive given the facts and circumstances surrounding the case. The Court further does not find any compelling reasons to invade the jury’s province in this matter. Therefore, this Court denies Defendants’ Motion for New Trial Nisi Remittitur.

#### **DEFENDANTS’ MOTION FOR NEW TRIAL ABSOLUTE**

In determining a new trial absolute, the Court must look to “if an amount is grossly inadequate or excessive so as to be the result of passion, caprice, prejudice, or some other influence outside the evidence.” *O’Neal v. Bowels*, 314 S.C. 525, 527, 431 S.E.2d 555, 556, (1993).

After review of the record and Defendants’ motion, this Court finds that the award is not grossly excessive nor the result of passion, caprice, prejudice, or some other influence outside the evidence. Therefore, the Court denies Defendants’ Motion for a New Trial Absolute.

#### **DEFENDANTS’ MOTION FOR NEW TRIAL BASED ON 13<sup>TH</sup> JUROR DOCTRINE**

A trial judge may grant a new trial absolute under South Carolina’s 13<sup>th</sup> Juror Doctrine if “the evidence does not justify the verdict.” *Norton v. Norfolk Southern Ry. Co.*, 350 S.C. 473, 478, 567 S.E.2d 851, 854 (2002). Again, to grant a new trial absolute, if an amount is grossly inadequate or excessive so as to be the result of passion, caprice, prejudice, or some other influence outside the evidence.” *O’Neal*. However, to utilize the 13<sup>th</sup> Juror Doctrine, a trial judge is entitled to “sit, in essence, as the thirteenth juror when he finds ‘the evidence does not justify the verdict,’ and then to grant a new trial based solely ‘upon the facts.’” *Id.* (citations omitted).

Thus, as a thirteenth juror, “the trial judge can hang the jury by refusing to agree to the jury's otherwise unanimous verdict” *Id.*

Given the evidence presented, this Court finds that the evidence does justify the verdict and was not the result of passion, caprice, prejudice, or some other influence outside of the evidence. Therefore, this Court denies Defendants’ Motion for a New Trial under the 13<sup>th</sup> Juror Doctrine.

**CONCLUSION**

Therefore, this Court finds and concludes that Defendants’ Motion for JNOV, Trial Nisi Remittitur, New Trial Absolute, and New Trial under the 13<sup>th</sup> Juror Doctrine should be and hereby are DENIED.

AND IT IS SO ORDERED

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H. Steven DeBerry, IV  
Presiding Circuit Court Judge

Beaufort, South Carolina  
January \_\_, 2025



Beaufort Common Pleas

**Case Caption:** Paul Vernon Coffman Jr , plaintiff, et al VS Port Royal Town ,  
defendant, et al

**Case Number:** 2021CP0701217

**Type:** Order/Form 4

H. Steven DeBerry, IV

Circuit Court Judge 2771