

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.)	ORDER OF RECONSIDERATION
)	
TOWN OF PORT ROYAL AND)	
KIMBERLY CARTER,)	
)	
Defendants.)	
)	
)	
)	
)	

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SC Court of Appeals

The Defendants, Town of Port Royal and Kimberly Carter, request the Court to reconsider the Order dated January 15, 2025 that is the subject of the Defendant’s Post-Trial Motions pursuant to Rule 59(e), SCRPC.

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 13th Juror Doctrine filed July 1, 2024. Having duly considered the motion of the Defendant’s, this Court has made further findings and conclusions of law regarding the same. As a result, the Court has fully incorporated those findings and conclusions herein.

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 was presided over by the Honorable H. Steven DeBerry, IV. 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).

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. The jury found that probable cause for the arrest of Paul Coffman did not exist. Ample evidence in the record supports this conclusion, as well as the conclusion that Kimberly Carter sought a warrant for Paul Coffman using deceptive tactics.

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). 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,

and that a reasonable officer under the same circumstances would have been aware of the violation of the Plaintiff's Constitutional rights. The Court finds that the Plaintiff has a clearly established right to not be arrested in the absence of probable cause and that based on the facts and testimony in the record no probable cause for the arrest existed, nor would a reasonable officer in the same situation believe otherwise.

Furthermore, this Court finds that the testimony and evidence in this case supports the jury's determination that the arrest warrant in this matter was obtained using deceptive tactics and that the tactics were material in obtaining the warrant. As a result, the award of punitive damages as well as the state law claims are valid and warranted according to the testimony and evidence introduced in this record. Therefore, the Court respectfully denies granting Qualified Immunity, as well as the Motion for JNOV, as the jury's finding that no probable cause existed, and that no reasonable officer would believe otherwise, is consistent with the evidence and testimony in this record, and those findings are hereby adopted by the Court.

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. In sum, the Court finds the jury's verdict was sound and reasonable according to the evidence and testimony presented at trial. Therefore, this Court respectfully 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. Again, the Court finds the jury's verdict was sound and reasonable according to the evidence and testimony presented at trial. Therefore, the Court denies Defendants' Motion for a New Trial Absolute.

DEFENDANTS' MOTION FOR NEW TRIAL BASED ON 13TH JUROR DOCTRINE

A trial judge may grant a new trial absolute under South Carolina's 13th 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 13th 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 13th Juror Doctrine.

STATE LAW CLAIMS

In regards to the state law claims, the Defendant asserts that the Court tied the negligence cause of action to the existence of probable cause. Defendants also assert that the Court did not address Defendant Town's argument that the cause of action for negligent arrest is not recognized under South Carolina law. Defendants also assert that the Court did not charge the jury as to the duty of care the negligence cause of action in this matter was based.

The Court recognizes that "the state does not owe its citizens a duty of care to proceed without error when it brings legal action against them." *Wyatt v. Fowler*, 326 S.C. 97, 101, 484 S.E.2d 590, 592 (1997). However, in this matter, the record reflects that Defendant Carter's arrest warrant omitted material information, and the issue of probable cause remained a fact for the jury to consider.

Based on the evidence presented at trial, Defendant Carter did not have a reasonable basis to charge the Plaintiff with a crime. The record shows significant evidence that Defendant Carter neglected to relay substantial amounts of evidence and information. Defendant Carter also ignored the conclusions of responding officers, her immediate supervisor, and the Internal Affairs officer that there was no reasonable basis and no probable cause to arrest the Plaintiff. As stated previously, the question of probable cause to arrest was a material question of fact to the jury.

Furthermore, Defendants consented the jury charges as presented and did not object to the charges prior to the dismissal of the jury as evidenced in Tr. 632. Both parties indicated explicitly to the Court that there were no objections to the charge after the jury exited the courtroom. Tr. 632.

FRANKS ANALYSIS

The Defendants also request the Court to address the *Franks* analysis. This argument was not raised at summary judgment or trial. Be that as it may, to engage in a Franks analysis, the Court must engage in a two-prong analysis set forth in *Franks v. Delaware*, 438 U.S. 154 (1978). A *Franks* analysis occurs “where the defendant makes a substantial preliminary showing that a false statement knowingly and intentionally, or with reckless disregard for the truth, was included by the affiant in the warrant affidavit, and if the allegedly false statement is necessary to the finding of probable cause, the Fourth Amendment requires that a hearing be held at the defendant's request.” *Id.* at 155–56.

This Court opines that at this stage in civil litigation the necessity of a *Franks* analysis does not apply. This is post-civil verdict, where the necessity of a Franks analysis comes about during a criminal prosecution as a right of a criminal defendant when requested during or pretrial. In the case at bar, Paul Coffman was a criminal defendant who is now a civil Plaintiff. The issues were decided by the jury as questions of fact, and their verdict was reasonable.

ATTORNEY'S FEES AND COSTS

The Court previously awarded Attorney's fees in this matter in the amount of \$33,333.33 and costs in the amount of \$14,351.72. As explained in the original order the fees were calculated solely based on a one third contingency of the Civil Rights Claim portion of the verdict which was clearly set out on the verdict form by the jury in the amount of \$100,000.00. Upon reconsideration it is admitted by this Court that this award of fees is a clear abuse of discretion. The Court failed to consider the vast case law and jurisprudence that controls the awarding of attorney's fees in this type of action with this type of result. The award of attorney's fees in this case was grossly inadequate and the amount was arrived at, not only in error of law, but in the abuse of this Court's discretion. As such this Court will issue a separate order in full explanation of the reconsidered amount of fees awarded in accordance with the controlling case law and jurisprudence.

CONCLUSION

The findings and conclusions made by the Court in this matter are in relation to the testimony and evidence that was presented to the jury during the trial of this case. The Court recognizes the fact that certain testimony and evidence was elicited and introduced before the jury in contradiction to prior orders of the court in direct regard to the same, in hearings that took place outside of the presence of the jury. However, in all instances aware of by the Court, this evidence and testimony was elicited and admitted in the presence of the jury without objection.

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

AND IT IS SO ORDERED

H. Steven DeBerry, IV
Presiding Circuit Court Judge

Beaufort, South Carolina
March __, 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/Other

H. Steven DeBerry, IV

Circuit Court Judge 2771