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Jul 08 2025

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas

R. Scott Sprouse, Circuit Court Judge

Appellate Case No. 2025-000046

Pennie Wolfe, as Personal Representative
of the Estate of Jason Wolfe,

Appellant,

v.

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

Defendants,

Of Which Anderson County Sheriff's Office is the

Respondent.

APPELLANT'S FINAL REPLY BRIEF

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ARGUMENTS IN REPLY

I. The Issues Raised in Appellant's Brief Are Preserved for Review

In its brief, Respondent argues Appellant failed to raise certain issues to the circuit court and therefore those issues are not properly asserted on appeal. Respondent's arguments are betrayed by the Record on Appeal.

Respondent urges this Court to ignore Appellant's challenges to Dr. Liu and his affidavit, upon which Respondent relied heavily at the hearing. Respondent contends Appellant's arguments were not raised to the circuit court and therefore cannot be raised for the first time on appeal. However, the hearing transcript clearly demonstrates Appellant took issue with Respondent's desire to use a medical doctor to establish detention center employees met the requisite standard of care: "The affidavit that Dr. Liu signed only addresses [] Mediko. It does not address a single Anderson County Sheriff's Department employee" (R. p. 39, l. 6-8). In addition, Appellant argued at the hearing that Respondent's own records contradicted, and therefore called into question, the accuracy of the medical provider's records on which Dr. Liu relied. (R. p. 8, l. 24 – p. 10, l. 25; R. pp. 57-64). Appellant further asserted that Respondent's own records supported Appellant's claims against Respondent. (R. p. 8, l. 24 – p. 10, l. 2; R. pp. 57-64). The issues concerning Dr. Liu's affidavit, the improper use of Dr. Liu to support Respondent's motion, as well as the grounds for his opinions, were squarely before the circuit court. Consequently, they are properly preserved for appeal.

II. Additional Time for Discovery was Warranted

Respondent suggests this Court should simply shrug off the fact Dr. Liu was never disclosed as an expert witness. It contends, because Appellant had not served written discovery, it was not entitled to learn Dr. Liu was a witness. Respondent's argument on this point is obtuse

and misleading. Months before it filed a summary judgment motion, Respondent answered a co-Defendant's discovery requests including the standard interrogatories in Rule 33, SCRCP. In answering, Respondent denied having an expert witness, did not identify Dr. Liu, and never supplemented its answers to those interrogatories as required by Rule 33(b), SCRCP:

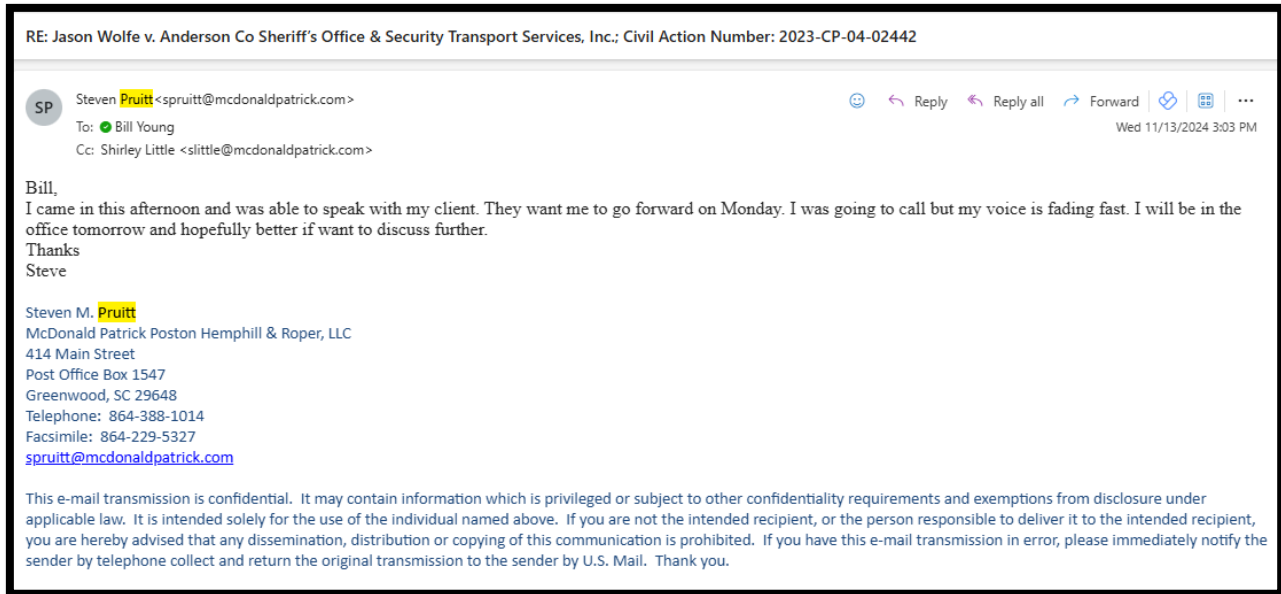
RESPONSE:

At present, Defendant has not retained an expert witness, but reserves the right to do so, and will supplement these answers as it becomes necessary. The Defendant also reserves the right to call any medical or quasi/medical person who has seen or treated the Plaintiff any time in the last ten (10) years. Defendant further reserves the right to use as an expert witness any expert listed by any other party.

Therefore, Respondent's argument is meritless. It is not only illogical to believe Respondent's answers to the standard interrogatories would have changed based upon who served them, but it is also disingenuous to claim Appellant would have learned of Dr. Liu's existence had it simply served written discovery on Respondent. Respondent may question whether Appellant should have served written discovery, but it cannot question that it failed to comply with its mandatory obligations under Rule 33. This is only one of several inconsistencies put forward by Respondent; it also contends adequate time for discovery had passed while simultaneously relying on an affidavit from an undisclosed witness. These positions contradict one another, cannot be reconciled, and warrant a reversal of the circuit court's order.

Furthermore, Respondent asserts Appellant is at fault for the hearing taking place, stating, "Appellant could have requested a stay or continuance in order to conduct discovery, but did not raise this issue until after Respondent's Motion was granted" (Respondent's brief, p. 10). This is incorrect in multiple respects. First, Appellant raised this issue at the hearing, as Respondent concedes (R. p. 39, l. 15-25; Respondent's brief, p. 9). Further, as reflected by the hearing transcript, Respondent did not challenge Appellant on this point (R. pp. 33-36, 40-42). Moreover,

Respondent **refused** to postpone the motion, as reflected in an email from its counsel the week before the summary judgment hearing: “I...was able to speak with my client. *They want me to go forward on Monday...*”



The things Respondent now says Appellant *should have* done to avoid summary judgment, *were* done. Therefore, this Court should reverse the circuit court’s summary judgment.

III. Respondent Improperly Relies on Facts Viewed in Its Favor

Despite claiming the circuit court “properly viewed evidence in the light most favorable to Appellant,” Respondent spends several pages in its brief explaining how the evidence *it* submitted supported summary judgment, barely acknowledging the incriminating records prepared (or not prepared) by Respondent’s own employees. Respondent attempts to brush these materials aside by claiming—without any support—the medical treatment would have remained unchanged. However, Appellant’s claims against Respondent are not merely whether he was provided proper medication. Respondent’s liability also centers on its intake process, the information it gathers, and provides to those medical providers. Inherent in these inquiries is how

and to what extent subsequent steps in the custodial process are impacted by Respondent's recording of incorrect information or its failure to conduct the required interviews. Respondent's arguments are premised upon the *assumption* that nothing would have changed with respect to Jason Wolfe, but offers nothing to support that contention. Clearly, there must be a reason Respondent's employees perform intakes, asking the specific questions of detainees. Likewise, there must be a purpose to the mental health evaluation performed by Respondent. If not, there would be no purpose in conducting these exercises. A significant question exists concerning the domino effect that resulted from Respondent's failure to properly record Jason Wolfe's mental health history, as Respondent's own documents indicate alternative action should have been taken (R.pp. 61-62). These issues not only deserve investigation, but raise sufficient concerns to justify the reversal of the circuit court's granting of summary judgment.

CONCLUSION

For the reasons stated in her appeal brief and the within reply brief, Appellant Pennie Wolfe respectfully requests this Court reverse the order of the circuit court granting summary judgment in favor of Anderson County Sheriff's Office and remand for further proceedings.

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