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.

REPLY BRIEF OF APPELLANT-RESPONDENT

ANDREW F. LINDEMANN
LINDEMANN LAW FIRM, P.A.
5 Calendar Court, Suite 202
Post Office Box 6923
Columbia, South Carolina 29260
(803) 881-8920

Counsel for Appellant-Respondent
Aiken County Sheriff's Office

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Statutes, Rules, and Other Authorities

ARGUMENTS

I. In the event that this Court reinstates the Order Relating to Post-Trial Motions filed March 12, 2024, the trial court erred in denying the other bases raised by the Aiken County Sheriff's Office for a Judgment Notwithstanding the Verdict.

The most critical error committed by the trial court in denying the motions for directed verdict and the JNOV motion presented by the Appellant-Respondent Aiken County Sheriff's Office involves a pure issue of law, that being a determination as to the legal duty of care owed by the employees of the Sheriff's Office. The Sheriff's Office contends that the trial court erred in failing to correctly formulate and charge the legal duty of care with the requisite particularity required pursuant to the allegations presented. As the record reflects, the trial court charged the jury that the Sheriff's Office "has a duty to safely confine, supervise, and maintain the custody of inmates." (R. 1666). That was later reiterated in the charge when the trial court instructed the jury that the Sheriff's Office "is liable only if it is grossly negligent in confining, supervising, and maintaining its inmates." (R. 1670). However, the trial court never elaborated on that ultra-generalized expression of the duty of care devoid of any specific application to the case at bar. Importantly, it is well-established that "[w]hether the law recognizes a *particular duty* is an issue of law to be determined by the court." *Ellis v. Niles*, 324 S.C. 223, 479 S.E.2d 47, 49 (1996). (Emphasis added). Importantly, the case law does not say a "general duty" but rather a "particular duty," meaning that the duty or duties of care must be particularized to the allegations of the case so as to give the jury the appropriate level of guidance in applying the facts to the law. In *Carson v. Adgar*, 326 S.C. 212, 486 S.E.2d 3 (1997), the Supreme Court elaborated on that point:

> Whether the law recognizes a particular duty is an issue of law to be decided by the court. In some circumstances, however, the

> question of whether a duty arises depends on the existence of particular facts. Where the existence or non-existence of a duty depends on facts, it is the duty of the court to instruct the jury as to the defendant's duty, or absence of duty, if either conclusion as to the facts is reached.

486 S.E.2d at 5. (Citation omitted). As the Sheriff's Office points out, there are literally dozens of South Carolina cases holding that the trial court has the duty to instruct on the "particular duty" of care that is owed. Yet, in Rhoads' view, the Sheriff's Office is requesting that the legal duty be first formulated and also communicated to the jury with "absurd specificity." Obviously, that is not the case. The Sheriff's Office is simply asking for a judicial determination of the particularized duty owed by its employees so that the jury would not be left to its own devices and speculation as to what the law requires of those detention officers. A generalized statement of a legal duty, without any application to the allegations itself, is quite simply not what is required by due process and fundamental fairness. "Absurd specificity" is not required, but a particularized duty is.

Ironically, the validity of the arguments made by the Sheriff's Office has been demonstrated with clarity by the great difficulties Rhoads has demonstrated in trying to establish the applicable duty of care and the source of that duty. What this Court should not overlook is that Rhodes fails to cite a single case, from this jurisdiction or any other, to support the overly generalized legal duty charged by the trial court. In fact, as discussed below, Rhoads offers several articulations of the applicable duty – different from what the trial court charged – in an attempt to support the verdict.

However, for starters, Rhoads begins her argument with the patently incorrect proposition that the Sheriff's Office has taken the position that the detention officers "owed absolutely no legal duty." *See*, Respondent's Brief, p. 12. Clearly, that is not the case. In fact, the Sheriff's

Office argued, as supported by numerous cases, that the legal duty owed is what was proposed in its Request to Charge #7, which states:

> I charge you that the legal duty of care that is owed by the Defendant Aiken County Sheriff's Office is as follows:
>
> The employees of the Sheriff's Office are legally responsible for seeing that prisoners are attended to by medical professionals. They are not legally responsible for determining the diagnosis of any medical condition or the course of treatment or for overruling the opinions of the medical professionals.

(R. 1826). That is an inherently sensible pronouncement of the applicable legal duty in a case such as the present one, where a plaintiff argues that she failed to receive the appropriate medical care while in confinement. Thus, this notion that the Sheriff's Office believes no legal duty is owed should be dispelled quickly.

As to the basis or source of the legal duty, Rhoads makes many of the same mistakes as the trial court which have already been addressed in the Sheriff's Office's opening brief. Rhoads starts with her reliance on the "jailer statute," specifically Section 24-5-10, which states: "The sheriff shall have custody of the jail in his county and, if he appoints a jailer to keep it, the sheriff shall be liable for such jailer and the sheriff or jailer shall receive and safely keep in prison any person delivered or committed to either of them, according to law." S.C. Code Ann. § 24-5-10. (Emphasis added). Rhoads also cites to Section 24-5-80, which was never raised or argued at trial, thus giving this Court some indication to the machinations in which Rhoads is engaging to try to support the generalized duty of law charged by the trial court. Section 24-5-80 states: "The governing body of each county in this State shall furnish, at all times, sufficient food, water, clothing, personal hygiene products, bedding, blankets, cleaning supplies, and shelter from extreme heat or cold or rain for all persons confined in a jail and access to medical care." S.C. Code Ann. § 24-5-80.

These statutes, however, require an analysis of the public duty rule. In the leading case of *Arthurs v. Aiken County*, 346 S.C. 97, 551 S.E.2d 579 (2001), the Supreme Court explained that "[t]he public duty rule presumes statutes which create or define the duties of a public office have the essential purpose of providing for the structure and operation of government or for securing the general welfare and safety of the public. Such statutes create no duty of care towards individual members of the general public." 551 S.E.2d at 582. "The public duty rule is a negative defense which denies an essential element of the plaintiff's cause of action: the existence of a duty of care to the individual plaintiff." *Id.* In other words, the public duty rule "is a rule of statutory construction, that is, a means of determining whether the legislative body that enacted the statute or ordinance intended to create a private cause of action for its breach." *Id.*

The "jailer statute" states that "the sheriff or jailer shall receive and safely keep in prison any person delivered or committed to either of them, *according to law.*" S.C. Code Ann. § 24-5-10. (Emphasis added). As the italicized "according to law" language makes clear, Section 24-5-10 was never intended by the General Assembly to establish a *specific* or *particularized* duty of care owed by the Sheriff's Office and has never been relied upon by an appellate court in this State as establishing any duty of care. Instead, Section 24-5-10 is a statute that, at most, describes the public duty of a sheriff or jailer in generalized terms which does not give rise to a private right of action. The same is true with respect to Section 24-5-80, which does not establish a duty of care owed by the Sheriff's Office and for which it may be held liable under a gross negligence theory. In fact, by its explicit language, Section 24-5-80 addresses the responsibility of the "governing body of each county in this State" and not the responsibility of the sheriff or jailer, which by law is obviously a distinct and separate entity.[1]

[1] It is well settled that South Carolina law treats a sheriff and a county as distinct and

Rhoads also makes the same mistake as the trial court by attempting to rely on language in the Tort Claims Act and specifically an immunity provision, Section 15-78-60(25), as a source for the legal duty of care. Interestingly, based on the Tort Claims Act, Rhoads argues on appeal that the duty of care requires the sheriff "to take reasonable steps to prevent the detainee from suffering injury." *See*, Respondent's Brief, p. 15. While that is still not a sufficiently particularized statement of the legal duty, the Court should take note that Rhoads is not even trying to support the trial court's charge of the legal duty, but is proposing various alternatives. As case in point, Rhoads proposes another recitation of the legal duty where she attempts to meld Section 15-78-40, Section 15-78-60(25), and the "jailer statute." *See*, Respondent's Brief, pp. 14-15. However, this reliance on the Tort Claims Act is misplaced. As this Court held in *Summers v. Harrison Construction*, 298 S.C. 451, 381 S.E.2d 493 (Ct. App. 1989), "[t]he South Carolina Tort Claims Act does not create causes of action. Rather, it removes the common law bar of sovereign immunity in certain circumstances, but only to the extent mandated by the Act." 381 S.E.2d at 495. In *Arthurs*, the Supreme Court agreed that "[t]he TCA does not create causes of action, but only removes the common law bar of sovereign immunity in certain circumstances." *Arthurs*, 551 S.E.2d at 583. Thus, the Tort Claims Act, which does not create causes of action, certainly does not create nor establish any legal duty of care actionable under South Carolina law. Not surprisingly, Rhoads ignores these cases, and continues to rely erroneously on the Tort Claims Act as being a source for the legal duty of care.

---

separate entities. In *Cone v. Nettles*, 308 S.C. 109, 417 S.E.2d 523 (1992), the Supreme Court held that a sheriff and his deputies in South Carolina are state, rather than county, employees. Later, in *Edwards v. Lexington County Sheriff's Department*, 386 S.C. 285, 688 S.E.2d 125 (2010), the Supreme Court reaffirmed that "under South Carolina law, the sheriff and sheriff's deputies are State, not county, employees." 688 S.E.2d at 127, n.1. The Supreme Court described this principle as "settled law" and declined to address what the Court described as "the legally settled distinction between a county government and a sheriff's office for liability purposes." *Id*. *See also*, *Lampley v. Hulon*, 432 S.C. 566, 854 S.E.2d 489 (Ct. App. 2021).

Rhoads also continues to rely on the Minimum Standards for Local Detention Facilities in South Carolina as a source of the legal duty. Yet, as the Sheriff's Office has previously argued, the Minimum Standards do not even have the force of law, as the Supreme Court in a unanimous opinion has already ruled. In *Myrtle Beach Hospital, Inc. v. City of Myrtle Beach*, 341 S.C. 1, 532 S.E.2d 868 (2000), the Supreme Court recognized that "[t]hese Minimum Standards have never been subject to the legislative scrutiny afforded regulations under the Administrative Procedures Act. Instead, they are merely the product of the County Association, adopted by the DOC, an executive agency. They cannot validly be viewed as expressing anything about legislative intent." 532 S.E.2d at 871. Thus, the Minimum Standards have never been adopted as regulations, and as a result, do not have the "force of law" under South Carolina law. In fact, pursuant to the South Carolina Administrative Procedures Act, the Minimum Standards expressly do not have the force or effect of law. Section 1-23-10(4) sets forth the APA's definition of "regulation," which provides in pertinent part that "[p]olicy or guidance issued by an agency other than in a regulation *does not have the force or effect of law*." S.C. Code Ann. § 1-23-10(4). (Emphasis added).

In short, the Minimum Standards should not be viewed as anything more than recommended guidelines, protocols, or policies. Yet, as Rhoads ignores, guidelines, protocols, or policies, while perhaps *evidence* as to a standard of care, are *not* a source of a legal duty. These concepts have been explained by the Supreme Court, according to whom internal policies or guidelines do not establish a legal duty of care, although once a "legal duty" is established as a matter of law, internal policies or guidelines may be treated as evidence to assess the applicable "standard of care." *See*, *Doe v. Wal-Mart Stores, Inc.*, 393 S.C. 240, 711 S.E.2d 908 (2011). In *Doe*, the Supreme Court held that [i]t follows that, if no duty has been established, evidence as to

the standard of care is irrelevant. Only when there is a duty would a standard of care need to be established." 711 S.E.2d at 912. In short, there is a significant difference between a "legal duty of care" and a "standard of care," and accordingly, internal policies or guidelines cannot be used as the source from which establish a legal duty of care.

Notably, Rhoads also claims that the legal duty of care is created by both federal and state constitutional law. However, a tort duty of care is not established by constitutional law. To the extent that the Rhoads is claiming a constitutional duty of care against the Sheriff's Office, that was never pled, and if it had actually been pled in this action, it would have been subject to summary dismissal because the Sheriff's Office, as an arm of the State, is not a "person" amenable to suit under 42 U.S.C. § 1983.[2]

Likewise, Rhoads cannot rely on the South Carolina Constitution, as she is now attempting to do despite the fact that she never pled a state constitutional claim. This Court has already held that "the South Carolina Constitution does not provide for monetary damages for civil rights violations and the legislature has not enacted an enabling statute." *Palmer v. South Carolina*, 427 S.C. 36, 829 S.E.2d 255, 261 (Ct. App. 2019) (certiorari denied on May 28, 2021).[3] In other words, there is no private right of action for money damages for a violation of the South Carolina Constitution. *Id*. Thus, Rhoads is precluded from recovering money damages for any alleged

---

[2] The United States Supreme Court has clearly held that neither the state, nor an agency or an arm of the state, are "persons" who may be sued under Section 1983. *Will v. Michigan State Police*, 491 U.S. 58 (1989). *See also*, *Cone v. Nettles*, 308 S.C. 109, 417 S.E.2d 523 (1992) (finding that a sheriff in South Carolina is a state official and not a "person" under § 1983).

[3] A petition for writ of certiorari was also denied by the United States Supreme Court on January 10, 2022. *See*, Orders List dated January 10, 2022 for the United States Supreme Court.

violation of the South Carolina Constitution even where an alleged constitutional deprivation (for which there is no remedy at law) is disguised as a gross negligence claim.

At any rate, Rhoads has provided the Court with an incorrect explanation of the applicable federal law. The federal standard is deliberate indifference to serious medical needs. In *Miltier v. Beorn*, 896 F.2d 848 (4th Cir. 1990), the Fourth Circuit holds that a prisoner must show that such corrections officials (such as the ACDC officers) were personally involved with a denial of treatment, deliberately interfered with a prison physician's treatment, or tacitly authorized or were indifferent to the prison physician's misconduct. The Fourth Circuit has similarly explained that prison officials who are untrained in medicine are entitled to rely on the judgment of medical professionals. *See*, *Iko v. Shreve*, 535 F.3d 225, 242 (4th Cir. 2008).

So the question boils down to – what is the particularized legal duty applicable to judging the conduct of the employees of the Sheriff's Office. The Sheriff's Office submits that the trial court's formulation and charge of "a duty to safely confine, supervise, and maintain the custody of inmates" is much too general and fails to appropriately describe the legal duty of care owed by detention officers when a detainee has serious medical issues but the detention officers are aware that the detainee has access to medical care because she is being provided with ongoing and continuous medical care by trained medical professionals. In the scenario presented in the case at bar, the duty of care owed would be limited to a duty for detention officers to see that the inmate in need of medical attention is seen and attended to by medical professionals. That is the extent of any legal duty of care. The officers are not and cannot be held legally responsible for determining the diagnosis of any medical condition or the course of treatment or for overruling the opinions of the medical professionals or for seeking a different or alternative course of care or treatment. As long as the detainee is receiving ongoing and continuous medical care, the

detention officers have no further duty. In other words, the officers have the right to rely on the expertise of the medical professionals.

Based on the case as pled and tried against the Sheriff's Office, whether Rhoads concedes it or not, there is no getting around the fact that Rhoads' case is premised on her argument that the detention officers, all non-medically trained personnel, should have overridden the medical decision-making of the SHP medical personnel and sought a different course of treatment for Rhoads – despite the fact that Rhoads had received *and was continuing* to receive substantial medical care from the SHP personnel. Not surprisingly, Rhoads has not offered a single case – from the Fourth Circuit or any other jurisdiction – where a court has ruled that detention officers, knowing that an inmate is continuing to receive medical treatment from medical providers, should override the medical decision-making of the medical personnel and seek other or alternative medical care for the inmate.

Nonetheless, ignoring how the case was pled and tried, Rhoads on appeal tries to portray the claims for gross negligence as something different in her attempt primarily to avoid the bar of Section 15-78-70(d). She attempts to argue that there are three theories of gross negligence, which she labels as "occurrences" one through three, that "involve duties that the ACSO's correctional officers owed to Rhoads (and breached) and are sufficient to sustain the jury's verdict." *See*, Respondent's Brief, p. 11.

The first two so-called "occurrences" are premised on the alleged failure of Lt. Jessica Whitaker and Lt. Erik Riddell to intervene in Rhoads' medical care and to second-guess the medical care that Rhoads was already receiving on a continuous basis from SHP personnel. To recap, the evidence is undisputed that Rhoads received medical care, including over twenty medical encounters within a one-month span. The SHP medical encounters are pled in detail in

Rhoads' Complaint. *See*, Complaint, ¶¶ 70-88. (R. 59-62).

The third so-called "occurrence" is a convoluted argument based on the administrative grievance process within the Detention Center. In addition to that "claim" of gross negligence not being pled, there was no charge to the jury, requested by Rhoads or given by the trial court, as to any duty of care related to the administrative grievance process. It is pure speculation to suggest that the jury found gross negligence on an unpled claim that was never charged. Additionally, it should be further noted that the trial court directed a verdict on any "failure to train" allegations. (R. 1338-1340). Yet, in addition to the foregoing points, that is a non-issue because even after Rhoads was placed into B-Max on May 24, 2019, she continued to be seen by the SHP personnel as documented in the medical records and the incident reports, including on May 24th, May 28th, May 29th, May 30th, May 31st, and June 2nd, as well as additional encounters twice a day during med-pass when Rhoads received medication as she herself testified.

In sum, based on the foregoing discussion, Rhoads failed in her proof of each of the elements of her gross negligence claim, and accordingly, the Sheriff's Office's directed verdict and JNOV motions should have been granted on these alternative bases.

II. In the event that this Court reinstates the Order Relating to Post-Trial Motions filed March 12, 2024, the trial court erred in making an award of "offer of judgment interest" and costs which are in contravention of the legislative intent as expressed in 2005 Act Number 32 and the provisions of the Tort Claims Act including the express bar on any type of "interest prior to judgment."

Rhoads filed a post-trial motion seeking an award of so-called "offer of judgment interest" and additional costs pursuant to Section 15-35-400 and Rule 68, SCRCP. The Sheriff's Office opposed that motion on the basis that "offer of judgment interest" or any type of "interest

prior to judgment" is not recoverable against a governmental entity pursuant to Section 15-78-120(b). Furthermore, the Sheriff's Office asserted that Section 15-35-400 and Rule 68(b), SCRCP, on which Rhoads' motion is based, are not applicable to governmental entities. In rejecting those arguments, the trial court granted the motion for "offer of judgment interest" and awarded $37,478.40 in interest and costs totaling $16,056.83. (R. 7). The Sheriff's Office contends that the trial court erred in awarding the "offer of judgment interest" and costs against a governmental entity.

In addressing this issue in her response brief, Rhoads entirely disregarded the primary argument made by the Sheriff's Office – that an award of "offer of judgment interest" is in contravention of the legislative intent as expressed in Act 32 of 2005. To reiterate, Section 15-35-400 was enacted as part of Act 32 of 2005. Section 18 of Act 32 reads: "The provisions of this act do not affect any right, privilege, or provision of the South Carolina Tort Claims Act contained in Chapter 78, Title 15 of the 1976 Code or the South Carolina Solicitation of Charitable Funds Act as contained in Chapter 56 of Title 33." Section 18 was then actually codified as part of the Tort Claims Act in Section 15-78-220, which states in pertinent part: "The provisions of Act 32 of 2005 do not affect any right, privilege, or provision of the South Carolina Tort Claims Act contained in Chapter 78, Title 15 of the 1976 Code." *See,* S.C. Code Ann. § 15-78-220. Thus, as the General Assembly intended in 2005, the provisions of Act 32, including Section 15-35-400, are not applicable to cases brought pursuant to the Tort Claims Act. It is that simple. Obviously, judging from her silence, Rhoads has no rebuttal to that argument. [4]

[4] It should be pointed out that Rhoads argues that "Rule 68 SCRCP and S.C. Code Ann. § 15-35-400 do not address the government at all." *See*, Respondent's Brief, p. 43. That is

Moreover, as to the other argument, which Rhoads did choose to address, Section 15-78-120(b) of the Tort Claims Act bars an award of any "interest prior to judgment." *See*, S.C. Code Ann. § 15-78-120(b) ("No award for damages under this chapter shall include punitive or exemplary damages or interest prior to judgment"). Rhoads refers to that bar as applying to "pre-judgment interest" and attempts to distinguish "offer of judgment interest." That, however, is a misreading of Section 15-78-120(b) which prohibits an award of any "interest prior to judgment." That is not limited to "pre-judgment interest" but, using the precise language of the statute, that applies to any "interest prior to judgment" which would be inclusive of "offer of judgment interest."

Notably, by statutory pronouncement, the Tort Claims Act is required *to be liberally construed to limit the liability of the state and its political subdivisions*. The General Assembly did not leave such a construction to chance but included that rule *explicitly* in its codified legislative findings. *See*, S.C. Code Ann. § 15-78-20(f) ("The provisions of this chapter establishing limitations on and exemptions to the liability of the State, its political subdivisions, and employees, while acting within the scope of official duty, must be liberally construed in favor of limiting the liability of the State"). *See also, Faile v. South Carolina Department of Juvenile Justice,* 350 S.C. 315, 566 S.E.2d 536, 540 (2002) ("[p]rovisions establishing limitations on liability must be liberally construed in the State's favor"). Thus, to the extent there is any confusion as to whether "offer of judgment interest" may be awarded against a governmental entity in a Tort Claims Act case, the law must be construed to limit the liability of the government.

---

true, but the reason for that is because Section 15-78-220 explicitly states that Section 15-35-400 is not applicable to cases brought pursuant to the Tort Claims Act.

In sum, the trial court erred in making an award of "offer of judgment interest" against a governmental entity. The award of $31,035.62 in interest and costs totaling $16,056.83 should be reversed.

CONCLUSION

Based on the foregoing discussion and analysis, in the event that this Court reinstates the Order Relating to Post-Trial Motions filed March 12, 2024, the Appellant-Respondent Aiken County Sheriff's Office respectfully requests that the Court reverse that Order to the extent that it denied a JNOV on the alternative bases addressed herein or alternatively reverse the denial of the Sheriff's Office's Motion for a New Trial Absolute. The Court is also requested to deny the award of "offer of judgment" interest and costs.

Respectfully submitted,

LINDEMANN LAW FIRM, P.A.

BY: *s/ Andrew F. Lindemann*

ANDREW F. LINDEMANN #13030
5 Calendar Court, Suite 202
Post Office Box 6923
Columbia, South Carolina 29260
(803) 881-8920

Counsel for Appellant-Respondent
Aiken County Sheriff's Office

November 10, 2025

CERTIFICATE OF COUNSEL

The undersigned counsel for the Appellant-Respondent Aiken County Sheriff's Office certifies that the Final Reply Brief of Appellant-Respondent complies with Rule 211(b), SCACR.

LINDEMANN LAW FIRM, P.A.

BY: *s/ Andrew F. Lindemann*

ANDREW F. LINDEMANN #13030
5 Calendar Court, Suite 202
Post Office Box 6923
Columbia, South Carolina 29260
(803) 881-8920

Counsel for Appellant-Respondent
Aiken County Sheriff's Office

November 10, 2025

CERTIFICATE OF COMPLIANCE

The undersigned counsel for the Appellant-Respondent Aiken County Sheriff's Office certifies that the Final Reply Brief of Appellant-Respondent complies with the Supreme Court's Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings, issued April 15, 2014.

LINDEMANN LAW FIRM, P.A.

BY: *s/ Andrew F. Lindemann*

ANDREW F. LINDEMANN #13030
5 Calendar Court, Suite 202
Post Office Box 6923
Columbia, South Carolina 29260
(803) 881-8920

Counsel for Appellant-Respondent
Aiken County Sheriff's Office

November 10, 2025

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 the Appellant-Respondent Aiken County Sheriff's Office, does hereby certify that service of the **Final Reply Brief of Appellant-Respondent** was made upon all counsel of record by email only this the 10th day of November 2025, as follows:

Francis M. Hinson, IV, Esquire
HHP Law Group, LLC
Email: brink@hhplawgroup.com

Patrick J. McLaughlin, Esquire
Wukela Law Firm
Email: Patrick@wukelalaw.com

s/ Andrew F. Lindemann