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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas
Diane S. Goodstein, Circuit Court Judge

Appellate Case No.: 2025-000175

Ronnie Tyson.....Respondent,

vs.

The County of Orangeburg, dba The Regional Medical Center of Orangeburg and Calhoun Counties; The County of Orangeburg and Calhoun Counties,.....Appellants.

RESPONDENT'S FINAL BRIEF

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STATEMENT OF ISSUES ON APPEAL:

Respondent adopts the two issues on appeal that are raised in the Appellant's Initial Brief, but he states it a little differently:

I. Did the trial court err in concluding that a settlement had not occurred under Rule *43(k), SCRCP*?

II. Did the trial court err in making an award of Post Judgment Interest on a jury verdict that was reduced to comply with the limits of the South Carolina Tort Claims Act?

STATEMENT OF THE CASE:

This is an appeal from a trial court order that granted Respondent's Motion for Post Judgment interest in a medical malpractice action against a governmental entity after a jury rendered a judgment for Respondent and after the trial court reduced the judgment to conform to the *South Carolina State Tort Claim Act.* Contrary to the Appellant's claim, this is not an appeal from a medical malpractice settlement.[1]

This malpractice case started on June 24, 2019, with the filing of a Notice to Intent to File Suit, as supported by an expert affidavit. *See, Record on Appeal, pp. 01-11 [hereinafter cited with "R", followed by the page(s) number(s)].* The parties were unable to resolve the matter by mediation. Thereafter, on September 25, 2019, Ronnie Tyson and his wife filed a Summons and Complaint in the Court of Common Pleas for the County of Orangeburg, alleging that multiple defendants committed malpractice by leaving a retained sponge in his

[1] Appellant's Statement of the Case states the following: "This is an appeal from a medical malpractice action and settlement." *Appellant's Initial Brief, page 1.* This is procedurally misleading considering the correct statement of the case as offered by the Respondent.

body cavity as surgery was performed at the Defendant's hospital on August 8, 2018. *See, R., p. 17.* Plaintiff Tyson initially named the hospital, the doctors performing the surgery, and his primary care physician. It was determined that the doctors were hospital employees, so they were dropped from the case. The trial court granted the primary care physician and her office summary judgment by order dated June 16, 2022. As a result of the court granting the Defendants' Motion for Summary Judgment, only the Appellants in this case remained. Thereafter, the parties consented to an order striking the matter from the docket pursuant to *Rule 40(j), SCRCP.* The Motion to Retore was timely filed and was granted pursuant to a Consent Order to restore the matter, and the matter was restored to the active docket by Consent Order dated August 30, 2023. *R., pp. 34-36.* The matter was thereafter set for trial on a date certain before a jury in the County of Orangeburg.

After several days of trial, on February 15, 2024, Plaintiff Ronnie D. Tyson obtained a judgment by jury verdict against Defendant Regional Medical Center for $3,000,000.00 [hereinafter referred to as "the verdict"]. *See, R., p. 035 [Order/Jury Verdict, dated February 15, 2024]; and see also R., pp. 39-44 [Judgment, dated February 15, 2024*]. As a result of post-trial motions, the verdict was reduced to $1.2 million as required by the *SC Torts Claims Act* by order of the Court dated July 08, 2024 [hereinafter referred to as the "reduced verdict']. *See, R., pp. 57-62.* The time to file an appeal expired, and the reduced verdict became payable to the Plaintiff. As time lingered, the Defendants did not pay the judgment. Defendants tendered the reduced amount of the Judgment in the amount of $1.2 million dollars, but they refused to pay post-judgment interest on the reduced verdict.

On October 01, 2024, Tyson filed a Motion for Post Judgment interest pursuant to *S.C. Code Sections § 34-31-10 and 15-78-120(b(5)). R., pp. 63-65.* Plaintiff Tyson argued that

he was entitled to post-judgment interest on the post-judgment interest on the reduced verdict as the prevailing interest rate of 12.50%. *Id.* Defendants filed a Memorandum in Opposition to Respondent's Motion for Post-Judgment Interest, which included verified Return to the Motion on November 06, 2024, arguing basically that the post judgment interest should not be granted because the defense counsel had "settled" the case with one of the trial attorneys. *See, R., pp. 67-68 [Verified Return].*

The matter came before the Honorable Judge Goodstein on November 07, 2024, and she issued a detailed written order dated January 02, 2025 [hereinafter referred to as the "Post-Judgment Interest Order"], granting the Appellant judgment interest on the reduced verdict. It is this Order that is now under appeal before this Court.[2] *See, R., pp. 45 [The Notice of Appeal states the wrong date for the Order of Judgment. The correct date for the Order of Judgment is February 15, 2024; see R. pp. 34-37].* Defendant filed Notice of Appeal of the Order Granting Motion for Post Judgment Interest on January 29, 2025. *See, R., p. 45.*

STATEMENT OF FACTS:

On August 3, 2018, Appellant Tyson presented himself to the Regional Medical Center Emergency Room, which is operated as a body politic of Orangeburg and Calhoun Counties, in the County of Orangeburg. The medical procedures that gave rise to this malpractice case are not important to the resolution of this appeal because the judgment is not under appeal—only the order giving rise to the post-judgment interest is a matter of this appeal. The procedural facts relevant to this appeal are outlined below:

[2]Appellant respectfully asks the Court to recognize the Appellant did not file a notice of appeal on the reduced verdict of $1.2 million which ended the case after the post-judgment motions were heard. The Order that was issued by the trial court, ending the case, is now the law of the case. This appeal deals solely with the order giving rise to post-judgment interest on the reduced verdict.

1. On February 15, 2024, a jury in the County of Orangeburg returned a verdict for $3,000.000.00 in favor of the Respondent Ronnie Tyson. *See, R., pp. 37-39.*
2. The court properly reduced the jury verdict to $1.2 million dollars as required by the *State's Tort Claims Act.* Again, this order was not appealed, and the said order ended the case. *See, R. pp. 37-39..*
3. The Clerk of Court did not add post-judgment interest to the reduced verdict.
4. The Court granted Respondent Tyson's Motion to add post-judgment interest to the reduced verdict. *See, R., pp. 108-113.* This order is the subject of this appeal.
5. Appellants assert that its "settlement" the case with the Respondent, which precludes it from paying post-judgment interest on the reduced verdict.
6. Appellants do not assert that post-judgment interest should not be added because it is precluded by law. Their sole argument is that it should not be added because they allegedly "settled" the case after the jury verdict and after the reduced verdict had been entered. *See, R. p. 66.*
7. The Appellants are subject to the South Carolina State Torts Claim Act as a governmental entity.
8. In granting the Respondent's Motion to add post-judgment interest, the trial judge made the following findings of fact as it relates to the Appellant's claim that a settlement agreement had be made:

> The Court does not find that such discussions were settlement discussions because the case had been resolved by the jury and the Court's resolution of the post-trial motions. Therefore, the case was not in a procedural posture for settlement discussion. However, the characterization of the discussion is unnecessary because regardless of the true nature of the discussion, no agreement was reduced to writing and placed on the record of the case. To that end, I find that no discussions between the parties at this juncture could impact on the proceedings unless such discussion were placed on the records as required by the law cited below.

See, R., p. 108 [Judge Goodstein's Order, dated January 02, 2025], granting the Plaintiff's Motion to add post-judgment interest, at paragraph 8.

To the extent that other facts are relevant to the Respondent's argument such facts will be stated within the argument as allowed by the appellate court rules.

STANDARD OF REVIEW:

Contrary to Appellant's assertion , the matter before this Court is a matter of law and not one of equity. *See, Appellant's Initial Brief, at page 7.* A matter involving a claim for post-judgment interest is a matter of law. *See, Calhoun v. Calhoun, 339 S.C. 96, 529 S.E.2d 14 (2000)* [citing *Anderson v. Citizens Bank, 294 S.C. 387, 365 S.E.2d 26 (Ct. App. 1987); see also 47 C.J.S. Interest &Usury § 81 (1982)("*(W]here interest is payable by virtue of statute or rule of court and not by virtue of contract, it is not necessary to make a specific claim for interest in the declaration or complaint."—which means that it is a right of law and not a right of equity). Therefore, the matter before the Court is an action at law tried without a jury.

In our state, when an action at law is tried without a jury, the appellate court's review of factual findings is very limited. *Townes Associates Ltd v. City of Greenville, 266 S.C. 81, 221 S.E.2d 773 (1976).* "In an action at law tried without a jury, the appellate court's review extends only to correction of errors of law; the trial court's factual findings' will not be disturbed unless wholly unsupported by the evidence." *Temple vs. Tec-Fab, Inc. 370 S.C. 383, 635 S.E.2d 541 Ct. App. 2006).*

ARGUMENTS:

I. **THE TRIAL JUDGE DID NOT ERR IN CONCLUDING THAT NO SETTLEMENT AGREEMENT BETWEEN THE PARTIES OCCURRED.**

The case before this Court is not complicated. The gravamen of Appellant's argument, expressly stated or inferred, is that it should not pay post-judgment interest because it had an agreement to pay the reduced $1.2 million dollar reduced verdict. The trial judge correctly made a finding that no such agreement was made between counsel, and the standards promulgated by *Rule 43(k), SCRCP* supports the trial judge's conclusion.

Rule 43(k), SCRCP, states the following, in pertinent part:

> **(k) Agreements of Counsel.** No agreement between counsel affecting the proceedings in an action shall be binding unless reduced to the form of a consent order or written stipulation signed by counsel and entered in the record, or unless made in open court and noted upon the record, or reduced to writing and signed by the parties and their counsel...

Rule 43(k), SCRCP [hereinafter referred to as the "Rule 43(k) Standards"]. Appellant does not dispute that the Rule 43(k) Standards were not met. The only evidence the Appellant offered in the record is the verified return that he signed under oath. *See, R., p. 66.* As a matter of fact, Appellant does not dispute that the *Rule 43(k)* Standards were not met. Moreover, the evidence in the record does not establish that the agreement was reduced in writing. The evidence does not establish that a consent order or stipulation was entered, and it certainly does not establish that it was made in open court and noted upon the record. The agreement alleged did not meet any of the requirements of *Rule 43(k),* and for this reason, the trial judgment found that no such agreement existed. *See, R., p. 108..*

Using Rule 43(k) Standards as previously outlined, Appellant has offered no evidence or referred to any evidence that will allow this Court to find that the trial court's finding is wholly unsupported by the evidence. *Temple vs. Tec-Fab, Inc. 370 S.C. at 383.* Therefore, under this prevailing precedent of this state, the Court must affirm the trial judge's finding that

no such agreement occurred. Additionally, the trial judge noted that the case was not even in a procedural posture for settlement discussion—a jury verdict had been rendered. Therefore, the Appellants argument is without, including its "judicial estoppel claim", is without merits and borders on the line of being frivolous, and for this reason the Appellant's argument should be rejected by this Court.

II. THE TRIAL JUDGE DID NOT ERR IN MAKING AN AWARD OF POST-JUDGMENT INTEREST ON THE REDUCED JURY VERDICT.

The Appellant claims that the court erred in granting post-judgment interest because awarding such interest would violate the statutory cap. Resolving this issue is solely one of statutory interpretation. First, Appellant never made the argument that awarding post-judgment interest would violate the statutory cap, nor did he argue before the trial court that interest on the judgment was prohibited by the *State's Tort Claim Act*. *See, R., p. 66.* In South Carolina, the general rule is that issues cannot be raised for the first time on appeal. The rule applies both to legal argues and factual issues. *See, e.g., Wilder Corp. v. Wilke, 330 S.C. 71, 76, 497 S.E.2d 731, 733* (1998)["It is axiomatic that an issue cannot be for the first time on appeal but must have been raised to and ruled upon by the trial judge to be preserved for appellate review"]. In other words, the Appellant never argued before the trial court that adding post-judgment interest would violate the statutory cap. He makes that argument for the first time now on appeal. Therefore, the Appellant's "statutory cap" argument should be rejected because it was not preserved for review. However, if this Court concludes that such issue was preserved, then Respondent submits that the trial judge did not err in granting the Respondent/Plaintiff statutory interest as allowed by the applicable law. Such conclusion is a

matter of statutory interpretation of the *South Carolina Tort Claim Act, S.C. Code Ann. §§15-78-10 et. seq.* [hereinafter referred to as the "SCTCA"].

Interpreting the SCTCA as it relates to statutory interest must first begin with the Act's plain language: if the words are clear and unambiguous, the inquiry ends. *State v. Sweat, 356 S.C. 117, 122, 588 S.E.2d 102, 105 (2003); Hodges v. Rainey, 341 S.C. 79, 533 S.E.2d 578 (2000).* The statutory provisions that govern interest on judgments are clear. Such provisions prohibit pre-judgment interest but do not prohibit post-judgment interest. *See, S.C. Code Ann. § 15-78-120(b)*["No award for damages under this chapter shall include punitive or exemplary damages or **prejudgment interest**"][emphasis added]. The Court must read the SCTCA as a whole. *Sloan v. S.C. Bd. of Physical Therapy Exam'rs, 370 S.C. 452, 480, 636 S.E.2d 598 , 613 (2006)*[A statutory must be read as a whole in order to prevent a statute from being rendered meaningless]. "A money decree or judgment of a court enrolled or entered must draw interest according to law. . ." *See, S.C. Code Ann. § 34-31-20(B).* Reading the SCTCA as a whole, this Court will find that "[a]ll governmental entitles shall be liable for their torts and the torts of their employees acting within the scope of their employment in the same manner and in the same extent as a private person...except as otherwise provide [by the Torts Claims Act]" *See, S.C. Code § 15-78-30(a) (2024).* To prevent Respondent from obtaining post-judgment interest would render *S.C. Code Ann. §§ 34-31-20(B)* and *15-78-120(b)(6)* meaningless statutory expressions. Moreover, considering the clear language of the statutory and possibility rendering statutes as being meaningless, this Court should reject the Appellant's argument that adding statutory post-judgment interest would violate the statutory cap.

CONCLUSION:

Based on the foregoing arguments, the Respondent Ronnie Tyson respectfully requests the Court to AFFIRM the trial court's order that was rendered in this case.

/s/ Glenn Walters, Sr.

December 4, 2025

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