IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

H. Steven DeBerry, IV, Circuit Court Judge

Appellate Case No. 2025-000818
Case No. 2021-CP-07-1217

Paul Vernon Coffman, Jr.,..... Respondent,

vs.

Town of Port Royal and Kimberly Carter, ... Appellants.

BRIEF OF RESPONDENT

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COUNTER-STATEMENT OF THE CASE

On July 2, 2021, Paul and Stephanie Coffman (Plaintiffs) filed an action against the Town of Port Royal, the Port Royal Police Department, Police Chief Alan Beach, Joshua Lee Smith, and several police officers including Kimberly Carter. (R. pp. 63-78). Plaintiffs alleged various claims arising out of an incident that occurred on July 6, 2019, between Mr. Coffman and Mr. Smith that resulted in Mr. Coffman's arrest and incarceration for assault and battery, third degree. Mr. Coffman asserted claims for damages under several theories, including state law claims for negligence, gross negligence, malicious prosecution, false arrest, false imprisonment, and federal claims for violation of Mr. Coffman's Fourth and Fourteenth Amendment rights (42 U.S.C. § 1983). (R. pp. 70-77). Mr. Coffman also asserted a common law battery claim against Mr. Smith. Ms. Coffman stated a claim for loss of consortium. (R. pp. 69-70).

Mr. Smith filed an Answer and Counterclaim. However, on October 20, 2023, Plaintiffs and Mr. Smith entered a stipulation of dismissal with prejudice as to all claims among them. (R. pp. 91-92).[1] The court ultimately dismissed Mr. Coffman's state law claims for false arrest and Ms. Coffman's claim for loss of consortium. (R. pp. 1-3). Detective Carter sought dismissal of the case

[1] Appellants erroneously state Mr. Coffman's claims against Mr. Smith were dismissed "at the summary judgment stage." (Appellants' Brief p. 2, note 1). However, Mr. Coffman and Mr. Smith dismissed claims against each other by stipulation pursuant to Rule 41, SCRCP. (R. pp. 91-92).

against her under qualified immunity but the court denied that motion. The court also denied Defendants' motions for summary judgment. (R. p. 4).

Following discovery and various motions the case proceeded to trial before a jury on June 17, 2024. The trial court directed a verdict for Defendants Beach, Griffin, and Wenkemann. (R. p. 1415, l. 19 - p. 1417, l. 2; p. 1419, l. 17 - p. 1420, l. 12). The court permitted the case to proceed to trial against Detective Carter and the Town of Port Royal. (R. p. 1417, l. 2 - p. 1418, l. 1).

The jury rendered a verdict for Mr. Coffman against Detective Carter for $60,000 actual damages and punitive damages of $40,000.00, and $250,000.00 against the Town of Port Royal. (R. pp. 9-12). Appellants filed motions for a new trial absolute, new trial nisi remittitur, new trial under the Thirteenth Juror Doctrine, and JNOV. On January 15, 2025, the trial court entered an order denying all of the motions. (R. pp. 13-18). Appellants sought reconsideration of these rulings.

Mr. Coffman filed a motion for fees and costs pursuant to 42 U.S.C. § 1988. He submitted documentation including time sheets and affidavits in support of a claim for fees totaling $410,792.50. (R. pp. 469-543; R. pp. 35-36). On January 15, 2025, the court entered an order awarding Mr. Coffman his costs ($14,351.72) and an attorney fee of one-third on the $100,000 verdict against Detective Carter ($33,333.33). (R. pp. 19-22). Mr. Coffman sought reconsideration of the fee award. (R. pp. 794-812).

On March 24, 2025, the court entered an order denying Appellants' motion for reconsideration. However, the court determined its fee award to Mr. Coffman was grossly inadequate in light of the submissions and the controlling law. The court ruled it would issue a separate order regarding the fees. (R. pp. 23-31).

On May 14, 2025, the court entered an order modifying the award of attorneys fees to Mr.

Coffman. Based upon a thorough analysis of the submissions and applicable law the court entered an order awarding $369,713.30 in fees. (R. p. 50). Mr. Coffman agreed to waive certain costs so the court amended the cost award to $10,057.78. (R. p. 50). On July 15, 2025, the court denied a motion for reconsideration filed by Appellants. (R. pp. 52-53).

On July 18, 2025, Appellants filed and served an amended Notice of Appeal from all of the circuit court's post-verdict orders.

STANDARD OF REVIEW

(1) The trial court's denial of Appellants' motions for directed verdict and judgment notwithstanding the verdict on the federal and state law claims

When reviewing the trial court's ruling on a motion for a directed verdict or a JNOV, the appellate court must apply the same standard as the trial court by viewing 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, 732 S.E.2d 166 (2012); *Carolina Real Est. Holdings, LLC v. Brilin Elec., LLC*, 446 S.C. 376, 919 S.E.2d 918 (Ct. App. 2025). The trial court must deny a motion for a directed verdict or JNOV if the evidence yields more than one reasonable inference or its inference is in doubt. *Carolina Real Est. Holdings*. Moreover, '[a] motion for JNOV may be granted only if no reasonable jury could have reached the challenged verdict.'" *RFT Mgmt. Co.*, at 332, 732 S.E.2d at 171. "An appellate court will reverse the trial court's ruling only if no evidence supports the ruling below. In deciding such motions, neither the trial court nor the appellate court has the authority to decide credibility issues or to resolve conflicts in the testimony or the evidence." *Id.*

(2) The award of attorney's fees and costs pursuant to 42 U.S.C. 1988

"The decision to award or deny attorney['s] fees and costs will not be disturbed on appeal absent an abuse of discretion." *Carolina Real Est. Holdings, LLC v. Brilin Elec., LLC*, 446 S.C. 376, 385, 919 S.E.2d 918, 922–23 (Ct. App. 2025), citing *Maybank v. BB&T Corp.*, 416 S.C. 541, 579–80, 787 S.E.2d 498, 518 (2016).

FACTS

Appellants present the "facts" of the case as if the jury did not find against them. (App. Br. pp. 4-6). Mr. Coffman provides a summary of the evidence in a light most favorable to him.

Plaintiff Paul Coffman

On July 6, 2019, Mr. Coffman took his wife and some friends and his dog on a boat ride on his 17-foot skiff. (R. p. 983, l. 19 - p. 985, l. 2). They stayed away from the "sandbar" because it is a place where people drink and party. (R. p. 985, ll. 18-24).

As they returned to the dock, a much larger boat called "Bad Company" being driven by Josh Smith overtook them at a high speed. (R. p. 985, l. 25 - p. 986, l. 8; p. 987, ll. 2-8; p. 988, ll. 13-20). The Bad Company had been doing "donuts" in the water, throwing up a large wake that rocked Mr. Coffman's boat. (R. p. 986, ll. 8-10; p. 1020, l. 11 - p. 1021, l. 22). A DNR officer stopped Mr. Smith's boat about its running lights being off. (R. p. 1022, l. 2 - p. 1023, l. 19).

Mr. Coffman tied his boat off at the dock to wait for Mr. Smith to get his boat out of the water. (R. p. 987, ll. 9-13). After about 15 minutes Mr. Coffman decided it was not safe so he moved his boat back towards the landing parallel to the dock. (R. p. 987, ll. 15-25). Everyone on Mr. Coffman's boat decided to climb onto the dock because of how badly the wake from the Bad

Company was rocking the skiff. (R. p. 988, ll. 3-12).

Mr. Coffman took his dog up to the parking lot and placed the dog in his truck. (R. p. 988, l. 21 - p. 989, l. 18; p. 1066, l. 23 - p. 1067, l. 2). As he was walking to the truck he encountered two women, one of whom was married to Mr. Smith. (R. p. 990, ll. 5-13). Mr. Coffman said hello and that he hoped they had a good time on the water. (R. p. 990, ll. 15-18). Ms. Smith indicated "it was a rough day out there on the party bar." (R. p. 1025, ll. 12-16). Mr. Coffman denied he threatened to beat Mr. Smith or asked how Ms. Smith "would want to be with someone like that." (R. p. 1025, ll. 3-24).

When he got to his truck Mr. Coffman retrieved a tool he uses to help him get his boat on the trailer. (R. p. 989, ll. 18-23; p. 990, l. 19 - p. 992, l. 15; p. 1027, ll. 2-19; p. 1030, l. 14 - p. 1031, l. 10; p. 1031, l. 16 - p. 132, l. 21; p. 1067, ll. 3-6). He nicknamed the tool a "fish bat" but it was a four-inch wide flat bladed putty knife.[2] (R. p. 989, l. 23 - p. 990, l. 1). Since the trailer was already hitched to the truck Mr. Coffman was returning the "fish bat" to the boat where he kept it. (R. p. 1032, l. 22 - p. 1033, l. 15). Mr. Coffman went back to the area on the dock where Ms. Coffman and their friend, Aaron Abercrombie, were standing. (R. p. 992, l. 16 - p. 993, l. 1).

The Coffman party had been waiting about 45 minutes for Mr. Smith to pull his boat out of the river. (R. p. 993, ll. 17-21). They were approached by Ms. Smith and her friend, Jessica Bradley, who stepped in front of Mr. Coffman and accused Mr. Coffman of carrying a gun. (R. p. 993, ll. 2-12; p. 994, ll. 8-16; p. 1038, l. 8 - p. 1039, l. 4). Mr. Coffman then pulled his shirt up to reveal a

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[2] Although the tool was a flat putty knife with a handle, all witnesses continued to call it a "fish bat," and Ms. Smith even described it as a "bat." Respondent therefore keeps the description "fish bat" in this brief but places quotation marks since the tool was not, in fact, a real fish bat – it was a putty knife with a flat blade and a handle.

battery-powered radio he had clipped to his belt. (R. p. 994, ll. 17-22; p. 1073, ll. 7-14). Ms. Bradley told him to watch his language because Ms. Smith was a police officer. (R. p. 994, ll. 22-25; p. 1038, ll. 2-7). Ms. Smith told Mr. Coffman that she was a deputy sheriff who worked with the School District. (R. p. 994, l. 25 - p. 995, l. 4). Mr. Coffman offered to let her search his truck if she was still concerned he had a gun. (R. p. 995, ll. 4-8).

Mr. Smith then approached Mr. Coffman, who was standing on the dock. (R. p. 994, l. 23 - p. 996, l. 4; p. 1039, ll. 17-23). Mr. Smith threatened to beat and kill Mr. Coffman. (R. p. 996, ll. 6-9). Mr. Coffman put his hands up and Mr. Smith grabbed the "fish bat" and threw it in the water. (R. p. 994, ll. 9-12; p. 1040, ll. 6-25; p. 1041, ll. 10-19; p. 1067, ll. 7-9). Mr. Smith then attacked and severely beat Mr. Coffman, causing numerous bruises on Mr. Coffman's arms, shoulder, abdomen, and chest. (R. p. 996, ll. 12-17; p. 997, ll. 2-20; p. 1039, ll. 20-23).

Mr. Abercrombie called 911 for the police. (R. p. 997, l. 21 - p. 998, l. 5; p. 1070, l. 24 - p. 1071, l. 1). As the police arrived Mr. Smith stopped beating Mr. Coffman but said "I'll be back to finish the job" as he walked off. (R. p. 998, ll. 8-13). Mr. Coffman spoke with Officer Bunting and responded initially that he did not want to press charges against Mr. Smith. (R. p. 998, l. 20 - p. 999, l. 20; p. 1043, ll. 9-16). No one was arrested at the scene. (R. p. 999, ll. 21-23).

Mr. Coffman left the dock with his boat and went home. (R. p. 1000, ll. 4-6). A neighbor, Vaughn Cowan, contacted Mr. Coffman, said he was a friend of Mr. Smith, and asked Mr. Coffman to come speak, which he did. (R. p. 1000, ll. 7-17; p. 1044, ll. 10-22). Mr. Cowan later called Mr. Coffman and tried to get Mr. Coffman and Mr. Smith together to "let bygones be bygones." (R. p. 1045, l. 4 - p. 1046, l. 8).

A few days later Mr. Coffman went to the Port Royal Police Department to get a copy of the

incident report. (R. p. 1000, l. 18 - p. 1001, l. 2). Mr. Coffman saw the partial report was not correct, so he returned a few days later to get the complete report, which still contained inconsistencies. (R. p. 1001, ll. 11-24). On one page it named Mr. Coffman as a victim and Mr. Smith as the subject, but on the next page it listed Mr. Smith as the victim and Mr. Coffman as the subject. (R. p. 1001, l. 25 - p. 1002, l. 11). Mr. Coffman contacted the Port Royal police to clarify the errors and Captain Griffith told Mr. Coffman to put his statement in writing, which he did. (R. p. 1002, ll. 15-22; p. 1011, ll. 11-17). No charges were brought against anyone at that time. (R. p. 1003, ll. 1-3). Captain Griffith explained the investigation was closed because both Mr. Coffman and Mr. Smith had decided not to seek charges against one another. (R. p. 1055, ll. 3-22).

Mr. Coffman ultimately made a complaint with the Sheriff's Department against Ms. Smith. (R. p. 1053, ll. 20-24). He met with someone at the Port Royal Police Department a few days later and was told there was no probable cause to arrest anyone. (R. p. 1003, ll. 10-13). He was told to submit FOIA requests to obtain all information related to the attack at the boat dock, which he did. (R. p. 1003, ll. 15-24; p. 1004, ll. 2-6).

Mr. Coffman spoke with Beaufort Sheriff's Office Captain Mattox, who listened rather than questioned Mr. Coffman. (R. p. 1004, l. 7 - p. 1005, l 2). Captain Mattox "talked about what the consequences could be for one of his officers, that was put on restriction...." (R. p. 1005, ll. 5-7). Captain Mattox said "[l]eave the report with me, and I'll look into it and get back with you...." (R. p. 1005, ll. 9-12). This resulted in an investigation into Ms. Smith. (R. p. 1005, l. 13 - p. 1006, l. 1). Mr. Coffman later spoke with someone from the Beaufort County Sheriff's Office Internal Affairs and also contacted then-Representative Shannon Erickson about the situation. (R. p. 1011, ll. 18-25; p. 1055, l. 23 - p. 1056, l. 2).

At some point Investigator Detective Carter contacted Mr. Coffman and asked him to meet with her to go over additional information. (R. p. 1012, ll. 1-13). Detective Carter had spoken with Vaughn Cowan and "began to develop some more thoughts that could involve you more." (R. p. 1012, ll. 15-24; p. 1056, ll. 7-10). Mr. Coffman appeared and gave a statement. (R. p. 1013, ll. 2-6; Exh. 9, p. 1861). Detective Carter also interviewed Ms. Coffman, Mr. Abercrombie, and Mr. Cowan. (R. p. 1056, ll. 14-23).

A few days later Detective Carter contacted Mr. Coffman and informed him that he was being charged with assault and battery, third degree, because she determined that he was the primary aggressor. (R. p. 1013, ll. 7-11; p. 1057, ll. 3-13). She told him he could wait for officers to pick him up or he could come in and have the warrant served on him. (R. p. 1013, ll. 12-24; p. 1057, ll. 14-19; p. 1068, ll. 16-25).

Mr. Coffman called attorney Gill Bell, who made arrangements with Detective Carter to meet at the Police Department the following day. (R. p. 1014, ll. 2, 8-13; p. 1059, ll. 1-4; p. 1059, ll. 9-12). Mr. Coffman was served with the arrest warrant and was immediately taken into custody, handcuffed, leg-ironed, placed in Officer Dowling's vehicle and taken to jail. (R. p. 1014, l. 13 - p. 1015, l. 5; p, 1058, ll. 3-12; p. 1060, ll. 17-23). At the jail, Mr. Coffman was checked in, stripped down, put in jail clothing, fingerprinted and received a mugshot.(R. p. 1015, ll. 6-18). Mr. Coffman was placed in a line and put into a jail cell with several other people. (R. p. 1015, ll. 2-21). The cell was filthy and there was human feces on the floor. (R. p. 1015, ll. 21-25). Mr. Coffman asked an officer about it, and was then required to clean it up. (R. p. 1015, l. 25 - p. 1016, l. 2). Mr. Coffman was told he would be in jail two hours, but he was not released until the following day after a bond hearing. (R. p. 1016, ll. 3 - 22; p. 1061, l. 24 - p. 1062, l. 4).

For months following the arrest people in the community would tell him they saw his mugshot and knew he had been arrested. (R. p. 1016, l. 23 - p. 1017, l. 19). Mr. Coffman described it as "terrible." (R. p. 1017, l. 19). The charge was ultimately dismissed on March 13, 2020. (R. p. 108,1 l. 20 - p. 110, l. 6; p. 1062, l. 12-14; Exh. 23, R. p. 1935). The charge was also expunged. (R. p. 1019, ll. 7-13). However, the information is still available on the Internet. (R. p. 1019, ll. 13-18).

Mr. Coffman stated they learned Port Royal had a camera at the location of the attack, but he obtained only 90 seconds of what was probably 45 minutes of film. (R. p. 1006, ll. 1-10; p. 1011, ll. 5-9). The video showed Mr. Coffman checking to see if he could back his truck up but he could not because Mr. Smith was still trying to load his boat, and Mr. Smith's truck lights were shining in Mr. Coffman's eyes. (R. p. 1006, l. 23 - p. 1009, l. 2). Mr. Coffman then got out of his truck and can be seen grabbing the "fish bat." (R. p. 1009, ll. 7-21). He then attempted to back his truck and had nothing in his hands at that point. (R. p. 1009, ll. 22-25; p. 1010, ll. 4-14). Mr. Coffman then walked back to the boat ramp and had no conversation with anyone. (R. p. 1010, l. 20- p. 1011, l. 1).

Mr. Coffman never threatened anyone at the scene. (R. p. 1071, ll. 18-24; p. 1072, ll. 23-23). Mr. Coffman learned later that Mr. Smith "had a reputation for being loud and obnoxious at the ... landing ... once the sun went down." (R. p. 1023, l. 25 - p. 1024, l. 2).

Joshua Smith (Video Deposition)

Mr. Smith was married to Brittany Smith. (R. p. 1531, ll. 1-7). He had been drinking at the sand bar that day with his wife and some friends and were returning to the boat dock. (R. p. 1535, ll. 2-7; ll. 21-23). He let his passengers out and while his friend was getting the trailer Mr. Smith was cleaning the inside of the boat. (R p. 1536, ll. 1-6). A DNR agent approached him and advised him

to have his navigation lights on. (R. p. 1536, ll. 8-15). Mr. Smith claimed it took 15 to 20 minutes to get his boat loaded on the trailer. (R. p. 1537, ll. 9-12).

Mr. Smith claimed Mr. Coffman was "cussing my wife." (R. p. 1538, ll. 1-4). He claimed he confronted Mr. Coffman but decided to leave and that was when Mr. Coffman raised the "fish bat" to strike Mr. Smith. (R. p. 1538, ll. 8-17). Mr. Smith's friend Hunter Lewis yelled "look out," and Mr. Smith turned around and saw the raised "bat." (R. p. 1538, ll. 22-24; p. 1540, l. 20 - p. 1541, l. 1). They shoved each other, Mr. Coffman fell down, and Mr. Smith grabbed the "fish bat" and threw it in the water. (R. p. 1541, ll. 1-22). Mr. Smith was "pretty upset" and "angry." (R. p. 1542, ll. 21-25).

Mr. Smith noticed a Port Royal Police Officer and walked over to him. (R. p. 1542, ll. 2-8; p. 1543, ll. 10-12). He did not recall the name of the officer or whether it was Officer Bunting. (R. p. 1543, ll. 13-23). He did speak with another officer and Mr. Coffman spoke with a different officer - "they had us separated" and "[w]e were told to stay away from each other." (R. p. 1544, ll. 4-16). The officers then communicated "back and forth" and both Mr. Smith and Mr. Coffman did not want to press charges "so they let us both go home." (R. p. 1544, l. 13 - p. 1545, l. 12). Mr. Smith claimed the officer told him that if either party wanted to press charges "then both of us would have gone to jail that night." (R. p. 1545, ll. 15-17). Mr. Smith agreed that Mr. Coffman never approached him at the scene and never made a direct threat to him. (R. p. 1574, l. 25 - p. 1575, l. 2; p. 1575, ll. 8-10). Instead, Mr. Smith went to where Mr. Coffman was standing, which was about 30 yards away. (R. p. 1575, ll. 11-18).

Detective Carter contacted Mr. Smith and asked him to discuss what happened at the boat dock. (R. p. 1549, ll. 6-25). Detective Carter indicated Mr. Coffman wanted to press charges against

Mr. Smith. (R. p. 1550, ll. 1-9; p. 1569, ll. 6-17; p. 1570, ll. 14-21; Exh. 2, R. p. 1795). Detective Carter told Mr. Smith he was also under investigation and that there had been no decision to make any kind of arrest. (R. p. 1552, ll. 14-25). Mr. Smith then relayed his version of the incident. (R. p. 1552, 9-13). Detective Carter later told Mr. Smith that she found Mr. Coffman was the aggressor because he had a weapon and she was going to have him arrested. (R. p. 1553, ll. 1-14). Mr. Smith did not want to participate at all in the prosecution but it was his wife who pressed the matter. (R. p. 1573, l. 22 - p. 1574, l. 23).

Mr. Coffman had also complained to the Sheriff's Department about Ms. Smith and she was suspended from her job for two days with pay. (R. p. 1550, ll. 18-21; p. 1551, ll. 2-10). Mr. Smith went back to the Port Royal Police Department to find out what was going on because "it was interfering with her career." (R. p. 1550, ll. 22-24). Detective Carter had also spoken with Lieutenant Baird about his findings in Ms. Smith's Internal Affairs Investigation. (R. p. 1572, ll. 10-15).

Mr. Smith agreed that in five places on the officer's body cam video, Mr. Smith never said that Mr. Lewis said "look out" or that Mr. Coffman raised the "fish bat." (R. p. 1565, 2-9; p. 1566, ll. 13-18; p. 1567, ll. 10-15; p. 1568, ll. 11-18). On the video Mr. Smith also denied that Mr. Coffman raised the "fish bat" to hit him. (R. p. 1565, ll. 14-24). In fact, nobody at the scene told the officers that they saw the "bat" raised. (R. p. 1569, ll. 3-5). Mr. Smith agreed that the first time he told anyone that Mr. Lewis said "look out" was when he gave the statement to Detective Carter. (R. p. 1571, ll. 6-9). Detective Carter then told Mr. Smith that his friend "did not see anything." (R. p. 1571, ll. 10-21).

Detective Carter said that she would let Mr. Smith know in advance if she sought charges against him. (R. p. 1571, l. 22 - p. 1572, l. 9). She reached out to Mr. Smith about Mr. Coffman's

bond hearing and he told her that he did not want to be at the hearing and did not want to participate at all in the prosecution. (R. p. 1572, l. 16 - p. 1573, l. 3).

Brittany Smith (Video Deposition)

Ms. Smith is married to Joshua Smith. (R. 1585, ll. 17-20). She had been a deputy with the Sheriff's Department for 15 years. (R. p. 1586, ll. 6-10; p. 1608, ll. 20-23).

Ms. Smith stated she exited the boat with her friend Jessica Bradley and they headed up the dock. (R. p. 1588, ll. 12-14; p. 1590, ll. 11-13). Mr. Coffman walked up and asked if they had a good day on the river and she answered "yes until now when my husband was playing his music pretty loud." (R. p. 1588, ll. 14-18). Mr. Coffman asked why she would want to be married to someone like that and added "I was 9/10's away from whupping his ass," adding "I am not too old to fight for an old man." (R. p. 1588, ll. 19-21; p. 1589, ll. 15-16).

Mr. Coffman then went to his vehicle and when he returned he was walking very slowly and suspiciously acting, and she could tell he was trying to conceal something down by his left leg. (R. p. 1590, ll. 2-6, 14-21). He did not speak to them nor did they speak with him. (R. p. 1591, ll. 19-23). Eventually, Ms. Smith and Ms. Bradley approached Mr. Coffman and asked him what he was hiding behind his back. (R. p. 1592, ll. 3-9; p. 1592, l. 18 - p. 1593, l. 1). She could see that it was a small black object. (R. p. 1592, ll. 10-16).

Mr. Coffman said nothing but raised his shirt to show he had a "walkie-talkie" type marine radio. (R. p. 1593, ll. 1-3; p. 1595, ll. 1-17). He eventually pulled out the "fish bat" and she asked why he had it to which he responded that he kept it in his boat. (R. p. 1593, ll. 4-12). She described it as a fish bat used to kill fish once they are caught and could be used as a weapon. (R. p. 1593, l. 22 - p. 1594, ll. 20-22).

Mr. Coffman was irritated with Ms. Smith and Ms. Bradley because they were questioning him and he began to use profanity. (R. p. 1595, ll. 22-24; p. 1596, ll. 3-6, 19-25). Ms. Bradley told him that Ms. Smith was a police officer "and that he should not speak to [her] that way." (R. p. 1596, ll. 7-9). Ms. Smith asked Ms. Bradley not to say that because "that is not the appropriate time," and Mr. Coffman "escalated to a whole other level." (R. p. 1596, ll. 10-13).

Mr. Smith then came over and Ms. Smith walked away. (R. p. 1597, ll. 5-7, 18-21). She spotted Officer Bunting pulling in and as soon as he got out of his car Ms. Smith and Ms. Bradley spoke with him about the incident. (R. p. 1597, ll. 21-25; p. 1599, l. 24 - p. 1600, l. 1; p. 1600. ll. 8-11). The incident between Mr. Smith and Mr. Coffman was over by that time. (R. p. 1600, ll. 20-23).

The incident took place between 8:30 and 9:00 p.m. on July 6, 2019. (R. p. 1598, l. 25 - p. 1599, l. 4; p. 1601, ll. 9-11). Ms. Smith did not see what happened between Mr. Smith and Mr. Coffman because her back was turned. (R. p. 1598, ll. 5-6). Mr. Smith was highly upset, agitated and angry after the altercation. (R. p. 1601, ll. 5-8). Neither Mr. nor Ms. Smith sought charges against Mr. Coffman. (R. p. 1605, ll. 19-23).

Ms. Smith did not hear anything further about the incident until July 15, 2019, when she was called into her commander's office to respond to a complaint Mr. Coffman had filed. (R. p. 1602, ll. 12-25). Ms. Smith was suspended with pay and sent home for two days while they completed their investigation. (R. p. 1603, ll. 1-5). The investigation was cleared and "nothing was found." (R. p. 1603, ll. 5-24).

Joab Dowling

Mr. Dowling was a former police officer with Port Royal where he served for nearly 15 years.

(R. p. 1078, ll. 9-20). He was also a former Beaufort County Sheriff's deputy. (R. p. 1078, ll. 21-25). He was the patrol supervisor the night of the attack and was on the scene. (R. p. 1079, ll. 22-25; p. 1080, ll. 4-11; p. 1126, ll. 1-6; p. 1132, ll. 4-7).

Mr. Dowling spoke with Mr. Smith's party but did not speak with the Coffmans. (R. p. 1082, ll. 6-7; p. 1126, 7-12; p. 1132, ll. 22-25). Mr. Smith was under the influence of alcohol and was in a heightened and agitated state; he was "loud and boisterous." (R. p. 1082, ll. 7-10; p. 1132, ll. 8-13). Mr. Smith told Mr. Dowling he "could leave and [Mr. Smith would] go teach Mr. Coffman a lesson." (R. p. 1132, ll. 14-16). No one told Mr. Dowling that they saw Mr. Coffman with a weapon. (R. p. 1083, ll. 8-16). After discussing the situation with other officers they determined that nobody wanted to pursue charges. (R. p. 1082, ll. 14-25).

Mr. Dowling defined probable cause as "the totality of circumstances that would lead and ordinary person to believe that a crime occurred," and added:

> Objectiveness is huge. You look – you have to look at everything that's happening, the parties involved, if there's injuries, how did people sustain those injuries? If we were to leave where the situation escalated again where somebody was going to get hurt, if the answer's no, typically we can – we can walk away if nobody wants to pursue any charges.

(R. p. 1083, l. 17- p. 1084, l. 4; p. 1084, ll. 8-15). Mr. Dowling did not detect "even an inkling" of any threat of harm to Mr. Smith. (R. p. 1087, ll. 11-18). From the body-camera video, from an objective and reasonable perspective, he would have found Mr. Smith to be the aggressor that night. (R. p. 1086, ll. 8-13; p. 1087, ll. 7-13; p. 1087, l. 19 - p. 1088, l. 13; p. 1133, l. 6 - p. 1134, l. 16).

Once he learned that the investigation had been reopened Mr. Dowling spoke with Captain Griffin and Detective Carter. (R. p. 1088, ll. 14-25). Mr. Dowling stated:

> I believe that during our discussions it was determined that we did not have enough

> to determine who the primary aggressor was, and we did not have any working victim that wanted to pursue the matter and go to court, so we were not going to pursue the issue further.

(R. p. 1089, ll. 3-8). They had all agreed and determined there was no reasonable basis to charge anybody with a crime. (R. p. 1089, ll. 9-15; p. 1123, ll. 12-25). Mr. Dowling agreed that at the end of the interactions he did not believe there was probable cause to arrest anybody. (R. p. 1127, ll. 4-7). That was the mutual assessment of all officers at the scene that night. (R. p. 1127, ll. 10-11).

Mr. Dowling read the following from the arrest warrant:

> That while at Sands Beach boat dock, the Defendant while armed with a fishing bat threatened to cause harm to the victim Josh Lee Smith. The victim then disarmed the Defendant and threw the weapon into the water. They have an eyewitness to prove the same.

(R. p. 1089, l. 21 - p. 1090, l. 14; Exh. 19, R. p. 1932). He spoke with the Smiths, Ms. Bradley and Mr. Lewis and when asked if Mr. Coffman had threatened any of them, they said "no." (R. p. 1090, l. 18 - p. 1091, l. 14). Mr. Dowling felt the statement in the arrest warrant did not fit into his knowledge from the scene "from an objective and reasonable basis...." (R. p. 1091, ll. 6-12). Specifically, the statement that Mr. Coffman "while armed with a fishing bat threatened to cause harm to the victim, Joshua Smith" contradicted what Mr. Smith told him on the scene. (R. p. 1091, ll. 18-23). All of this was on Mr. Dowling's body-cam video and Detective Carter had access to the video. (R. p. 1092, 7-16).

Mr. Dowling noted that one of the elements of assault and battery, third degree, was "an eminent threat and the present ability to do so, which we do not have, or did not have that night it was reported to me." (R. p. 1092, l. 17 - p. 1093, l. 10). Mr. Dowling did not learn of any new information from the time of the incident until August 2, 2019, when he transported Mr. Coffman

to the jail, that would have changed his analysis. (R. p. 1093, l. 8 - p. 1094, l. 1; p. 1124, ll. 1-5). He added "the biggest key that I can harp on is we would not have made the arrest was because nobody wanted to pursue charges." (R. p. 1094, ll. 5-8). In terms of the "totality of the circumstances" there was not any reasonable basis to charge Mr. Coffman with a crime. (R. p. 1094, ll. 9-14).

Mr. Dowling stated that had he presented the case for a warrant to Judge Grimsley with the missing information, Judge Grimsley would have asked "did the victim want to pursue it?" (R. p. 1094, l. 15 - p. 1095, l. 4). It would have been incumbent upon him to also tell the judge that there was no present ability to cause harm. (R. p. 1095, ll. 5-13). He saw the testimony from Mr. and Ms. Smith and that Mr. Smith "had repeatedly advised that he did not want to be involved and did not want to press charges." (R. p. 1097, ll. 4-11). He added "I would never have sought a warrant." (R. p. 1095, ll. 17-18; p. 1123, ll. 7-11).

Mr. Dowling stated that Detective Carter and Officer Ryan Steady had been called into the Deputy Chief's Office, had a conversation with him, and thereafter reopened the case and obtained the warrant. (R. p. 1095, l. 19 - p. 1096, l. 4). Detective Carter and Officer Steady said "they had been told to go get the warrant" and the decision to get the warrant "came from the Deputy Chief." (R. p. 1124, ll. 6-20). He could not recall any other case where "an assault and battery closed on the side of the road that night and reopened." (R. p. 1096, ll. 5-11). No one ever told him of any new information or asked what they should do. (R. p. 1096, ll. 12-16).

Mr. Dowling described other incidents where Deputy Chief Wekenmann had ordered arrests without probable cause. One involved the order to arrest a man for an armed robbery when the suspect was, in fact, a woman. The other incident involved the arrest of a preacher that was later determined to be without probable cause at a preliminary hearing. (R. p. 1097, l. 19 - p. 1101, l. 14;

p. 1105, l. 10 - p. 1107, l. 7).

Captain John Griffith (Rule 30(b)(6), SCRCP, Witness)

Captain Griffith defined "probable cause" as:

> A set of facts and circumstances that would lead someone – lead a reasonable person to believe that a crime was committed, and that [the] person [who] was accused of the crime committed the crime.

(R. p. 1141, ll. 1-6). The Police Department policy manual defined probable cause as follows: "Probable cause is a reasonable belief grounded in the fact. The standard deals with probability not certainty." (R. p. 1141, ll. 15-21). He agreed the more information the officer can gather the better an investigation to establish probable cause. (R. p. 1141, l. 22 - p. 1142, l. 10). This includes taking as many statements as possible from potential witnesses, collecting as much physical evidence as possible, visiting the scene, reviewing applicable dash-cam and body-cam video, and reviewing any other available video footage. (R. p. 1142, l. 11 - p. 1143, l. 4; p. 1161, ll. 11-12).

Captain Griffin agreed there was "nothing in the synopsis from Officer Bunting that would give rise to any sort of probable cause for the arrest." (R. p. 1165, ll. 1-4). The same is true of Officer Bunting's supplemental report. (R. p. 1165, l. 5 - p. 1166, l. 25). As of July 15, 2019, there were no statements, physical evidence, or evidence of any kind that provided probable cause to arrest either party. (R. p. 1168, ll. 1-10). Captain Griffin admitted that if the case was reopened, they would need some change in the information "in order to create probable cause to arrest anyone." (R. p. 1167, ll. 15-25). Deputy Chief Wekenmann, who reports to Chief Beach, made the decision to reopen the case after Mr. Coffman had been "calling around town, to the Town Hall, to the Police Department, I guess to local representative requesting that the case be reopened...." (R. p. 1146, ll. 13-25; p. 1147, ll. 14-16; p. 1169, ll. 11-15).

Captain Griffith admitted basic facts on behalf of the Port Royal Police Department. (R. p. 1151, l. 19 - p. 1158, l. 15). This included that Officer Bunting noted in his report that it appeared it was a mutual fight. (R. p. 1154, ll. 17-19). Also, three days after the attack Captain Griffith advised Mr. Coffman since neither party indicated he wanted to press charges, no further action would be taken. (R. p. 1155, ll. 1-10).

On July 6, 2019, Mr. Coffman detailed Officer Bunting's alleged mis-characterization of the events in a written statement. (R. p. 1155, ll. 12-19). On July 12, 2019, Mr. Coffman filed a citizen's complaint against Ms. Smith alleging a code of conduct violation. (R. p. 1155, ll. 20-23). On July 15, 2019, Mr. Coffman called the Port Royal Police Department to discuss alleged errors in Officer Bunting's report. (R. p. 1155, l. 24 - p. 1156, l. 2). Captain Griffith told Mr. Coffman that all body cam video and the officers' reports were reviewed "and it was determined that the officers made the correct decision on how to properly handle the situation." (R. p. 1156, ll. 3-9; p. 1207, l. 11 - p. 1208, l. 1). Captain Griffin further advised Mr. Coffman "that there was not enough probable cause to charge any individuals, and the matter was closed." (R. p. 1156, ll. 10-13). On July 17, 2019, Captain Griffith explained to Mr. Smith "that there was no charges being made against any involved party, and the case was closed." (R. p. 1156, ll. 18-22).

On July 22, 2019, Mr. Coffman sent a letter to the Town Manager and Chief Beach requesting the video footage from the boat landing. (R. p. 1156, l. 23 - p. 1157, l. 5). Upon receiving no response on July 19, 2019, Mr. or Ms. Coffman contacted Representative Erickson in hopes she would be able to get some answers. (R. p. 1157, ll. 6-13). Deputy Chief Wekenmann then asked Detective Carter to reopen the case. (R. p. 1157, ll. 12-15).

Detective Carter obtained a copy of the Beaufort County Sheriff's Department's Internal

Affairs investigation. (R. p. 1169, l. 24 - p. 1170, l. 16). At the point the case was reopened there was not enough probable cause to make any charges. (R. p. 1170, ll. 17-20). There was nothing in the witness statements by DNR Officer Pritchard, Ms. Bradley, Mr. Lewis or Mr. Abercrombie that would give rise to probable cause. (R. p. 1171, l. 22 - p. 1172, l. 10; p. 1178, ll. 13-21; p. 1181, ll. 4-7; p. 1181, l. 13- p. 1183, l. 22). The body cam videos from July 6, 2019, revealed that Mr. Smith did not want to cooperate in any way so this was known from the beginning. (R. p. 1220, l. 19 - p. 1221, l. 3). Captain Griffith agreed that a judge makes a probable cause determination based upon information presented by the officer. (R. p. 1216, ll. 1-15).

On August 1, 2019, Detective Carter instructed Mr. Coffman "that he only needed to come to the Port Royal Police Department so she could serve an arrest warrant on him, give him a court date and go free." (R. p. 1157, ll. 16-21). On August 2, 2019, Mr. Coffman went to the Police Department and Detective Carter arrested him for assault and battery, third degree, and he was "booked in." (R. p. 1157, l. 22 - p. 1158, l. 1; p. 1158, ll. 2-10).

Detective Kim Carter (Video Deposition)

Detective Carter left the Port Royal Police Department in 2021. (R. p. 1693, ll. 4-6). At the time she was a sergeant and the Chief Investigator, Officer Steady was her direct supervisor, and above him was Deputy Chief Wekenmann. (R. p. 1693, ll. 7-13, 23-24).

Detective Carter had no involvement with the initial investigation into the boat ramp incident on July 6, 2019. (R. p. 1694, ll. 1-3). She was aware that as of July 15, 2019, there was no probable cause to charge anyone and the case was officially closed. (R. p. 1694, ll. 4-8). The case was eventually reopened and assigned to her on July 29, 2019. (R. p. 1694, ll. 9-12; p. 1699, l. 19 - p. 1700, l. 2; p. 1744, ll. 17-18; Dep. Exh. 1, R. pp. 1764-1786).

Detective Carter reviewed the incident report and supplemental reports, but could not recall reviewing the body cam video footage. (R. p. 1674, l. 21 - p. 1675, l. 1; p. 1700, ll. 3-11; p. 1704, ll. 17-20; p. 1706, ll. 8-10). She agreed in the course of a normal investigation she would have reviewed all available video. (R. p. 1700, ll. 12-18). She was informed about the Internal Affairs Report but could not recall seeing it. (R. p. 1700, l. 19 - p. 1702, l. 7).

Detective Carter agreed it was important to accurately document events as they happen and to include all relevant information. (R. p. 1695, ll. 2-11; p. 1696, ll. 4-19). She agreed "the more information in the Incident Reports and Supplemental Reports the better." (R. p. 1695, ll. 12-14). Her report "was accurate when I typed it." (R. p. 1696, ll. 20-23). She agreed that if something was not in the report, "it didn't happen." (R. p. 1696, l. 24 - p. 1697, l. 1).

Detective Carter described what she perceived as inconsistencies in the statements the Coffmans gave that night and in later interviews. They initially denied any interaction with Ms. Smith and her friend but later said that they did have conversations with them. (R. p. 1703, l. 14 - p. 1704, l. 4). There was no other new information she learned during the investigation. (R. p. 1708, ll. 10-15).

In her report she wrote "due to the video, all of the combined statements of everyone and totality of the circumstances, [Mr. Coffman] was the aggressor." (R. p. 1709, l. 23 - p. 1710, l. 2) She said that Mr. Coffman retrieving the "fish bat" from his truck and taking it with him back down to the dock was sufficient for probable cause. (R. p. 1710, ll. 3-23). She agreed statements from Ms. Smith and Ms. Bradley indicated Mr. Coffman did not interact with them after he went to his truck. (R. p. 1710, l. 24 - p. 1712, l. 4). Ms. Bradley added that they "were a good distance from him" because he was back on the dock. (R. p. 1712, ll. 5-13).

Detective Carter agreed Mr. Coffman would have been far enough down the dock that he was not within range of being able to attack anyone, and Mr Coffman never approached any of the witnesses, but the two women approached him. (R. p. 1712, ll. 16-25; p. 1713, ll. 5-22; p. 1714, ll. 5-15; p. 1717, ll. 14-17; p. 1717, l. 23 - p. 1718, l. 2). Mr. Coffman never approached Mr. Smith; instead, Mr. Smith approached Mr. Coffman, who was standing on the dock. (R. p. 1718, ll. 3-8; p. 1728, ll. 1-13). The statements indicate that as they were walking away from Mr. Coffman it was Mr. Smith who re-engaged with Mr. Coffman. (R. p. 1720, l. 14 - p. 1721, l. 8). She agreed Mr. Smith attacked Mr. Coffman and that Mr. Coffman never struck Mr. Smith. (R. p. 1728, ll. 14-19).

The first time Mr. Smith said anything about Mr. Lewis saying "look out" was when he gave his statement to her. (R. p. 1705, ll. 11-21). Mr. Lewis told her that he did not see anything since he was backing up the trailer. (R. p. 1706, ll. 11-24; p. 1713, ll. 23-25). Neither Ms. Smith nor her friend, Ms. Bradley, mentioned Mr. Lewis seeing anything or yelling "look out." (R. p. 1707, ll. 3-20). Detective Carter agreed these statements were inconsistent with Mr. Smith's statement. (R. p. 1706, l. 25 - p. 1707, l. 2; p. 1707, ll. 11-13, 21-24; p. 1708, ll. 3-9).

It was important to Detective Carter that Mr. Coffman was hiding the "fish bat" after he retrieved it. (R. p. 1716, ll. 17-22). She agreed, however, that "he could just as easily have been hiding the bat so as not to start an altercation." (R. p. 1716, ll. 23-25). In fact, he did not approach anyone with the "fish bat" to start an altercation. (R. p. 1717, ll. 18-22). He told her he retrieved it from the truck to put it back in his boat. (R. p. 1750, ll. 7-12).

Detective Carter stated she established probable cause that Mr. Coffman was the aggressor from the written statements and the video showing Mr. Coffman retrieving the "fish bat." (R. p. 1722, ll. 9-15; p. 1725, l. 20 - p. 1726, l. 15; p. 1730, ll. 12-20; p. 1731, ll. 4-7). She conceded that

these facts were already known at the time she opened her investigation. (R. p. 1729, ll. 13-16; p. 1730, ll. 21-23). Also, at no point did Mr. Coffman seek out or make a direct threat to Mr. Smith. (R. p. 1727, ll. 20-25; p. 1743, ll. 15-24; p. 1759, ll. 3-4).

Detective Carter reviewed the warrant. (R. p. 1733, ll. 5-9; Dep. Exh. 3, R. p. 1787). She did not recall telling the judge that Mr. Smith initiated physical contact with Mr. Coffman. (R. p. 1734, ll. 2-5). She had stated that Mr. Coffman "threatened to cause harm to [Mr. Smith] while armed with a bat," and if that had not been in the warrant that would have affected the judge's determination on making probable cause. (R. p. 1734, ll. 6-17). She did not recall what she told the judge, but if she had told the judge anything beyond what was in the warrant she would have put it in her report. (R. p. 1735, ll. 13-20). That is, the information in the warrant is the information she presented to the judge. (R. p. 1736, ll. 7-10).

Detective Carter told Mr. Coffman that if he came to the police station, she would read the warrant and give him a court date and he would be free to leave. (R. p. 1736, ll. 19-24). Mr. Coffman was not comfortable coming on his own. (R. p. 1736, l. 25 - p. 1737, l. 2). She told his attorney, Gill Bell, the same thing. (R. p. 1737, l. 6 - p. 1738, l. 24). However, the victim's advocate decided that a bond hearing needed to take place, which would require booking Mr. Coffman into jail. (R. p. 1738, l. 25 - p. 1739, l. 6; p. 1740, ll. 8-11; p. 1741, ll. 4-9; p. 1742, ll. 4-7; p. 1755, ll. 11-17). She was aware Mr. Smith did not want to be present at a bond hearing. (R. p. 1739, ll. 7-14).

Officer Ryan Steady

Officer Steady identified the incident report from the night of the attack. (R. p. 1235, l. 24 - p. 1236, l. 3; Exh. 2, R. p. 1795). He would have reviewed the report, confirmed that no further action was needed, and closed it out. (R. p. 1236, ll. 4-22).

Officer Steady accompanied Detective Carter to a meeting with Deputy Chief Wekenmann. (R. p. 1243, ll. 9-24). Officer Steady did not agree that there was a reason to arrest either party in the attack from the information he had been presented at the time. (R. p. 1243, l. 25 - p. 1244, l. 8; p. 1244, l. 22 - p. 1245, l. 6). He told them that he did not "think there was enough there." (R. p. 1249, ll. 16-21). He added "[m]y vote was overruled and the warrant was obtained." (R. p. 1249, l. 25 - p. 1250, l. 15). Any attempt to stop the warrant would not have made a difference or would have been viewed as circumventing the chain of command, making his "life extremely difficult." (R. p. 1250, l. 16 - p. 1252, l. 11). Deputy Chief Wekenmann had control of the day-to-day operations and the "buck stopped" with him. (R. p. 1252, ll. 12-23).

Officer Steady agreed that he would not want to include or omit facts that would mis-characterize or mislead the judge when applying for a warrant. (R. p. 1247, ll. 13-18). It would be important to include facts and evidence that "an alleged victim had actually initiated contact with the subject...." (R. p. 1247, ll. 19-24). It would have been important or relevant to advise the judge that the subjects involved were inebriated. (R. p. 1254, ll. 18-24).

Officer Steady reviewed the affidavit Detective Carter submitted for the warrant. (R. p. 1246, ll. 9-19). When asked whether the "arrest warrant sufficiently state[d] the facts or omit[ted] facts to justify submitting that to a Judge for consideration," Officer Steady stated "[i]t would be fair to say that not all the facts are included in the affidavit." (R. p. 1246, l. 20 - p. 1247, l. 1). He agreed that the statement "threatened to cause harm to the victim Joshua Lee Smith" was not an accurate statement given the knowledge Officer Steady had and based on his consultation with Detective Carter. (R. p. 1248, ll. 4-11). Had the judge known that there was too great of a distance between the two people so that there was no direct threat then the judge would be obligated not to sign or issue

the warrant at all. (R. p. 1248, l. 13 - p. 1249, l. 1).

When asked "[w]ould you take this warrant to a judge knowing the information you know and submit this as it's written?", Officer Steady responded "[n]o, sir." (R. p. 1249, ll. 2-5). He opined that the warrant did not comply with the Port Royal Police Department policies. (R. p. 1249, ll. 6-10). When asked "was there a reasonable basis to charge Paul Coffman with a crime?", Officer Steady responded "[i]n my opinion, no." (R. p. 1249, ll. 11-15).

Officer Steady was unaware of any other case where an investigation was reopened. (R. p. 1253, ll. 4-10). It would be more important than the initial investigation to be careful, diligent and deliberate because they would be contradicting the initial officers who were on the scene and would "call them out for doing a bad job, in my opinion." (R. p. 1232, l. 11 - p. 1254, l. 17).

Lester (Gill) Bell

Mr. Coffman hired Mr. Bell to represent him on the criminal matter. (R. p. 1276, ll. 10-23; p. 1311, ll-19). Mr. Bell attempted to coordinate a voluntary turn-in for Mr. Coffman. (R. p. 1278, l. 24 - p. 1279, l, 19). Detective Carter told Mr. Bell that they had no intention of taking Mr. Coffman into custody but would simply serve the citation on him, allow him to be briefly processed at the Police Department, and then let him leave with Mr. Bell. (R. p. 1279, l. 22 - p. 1280, l. 3; p. 1312, ll. 10-15; p. 1313, ll. 18-25; p. 1314, l. 24 - p. 1315, l. 16; p. 1316, ll. 13-16, 20-22; p. 1326, ll. 2-4). When Detective Carter referred to the document as a citation, Mr. Bell questioned her and discovered it was actually an arrest warrant. (R. p. 1280, ll. 14-19; p. 1312, ll. 16-18). When pressed on whether she would have to check Mr. Coffman into the jail, she responded "no, we will let him return right back out the door with you." (R. p. 1280, ll. 3-11).

Mr. Bell drove from Lexington to Port Royal and met with Mr. Coffman at 9:00 a.m. (R. p.

1281, ll. 18-22). Mr. Coffman was exceptionally worried and nervous about what was happening. (R. p. 1300, l. 17 - p. 1301, l. 2). They went inside and met with Detective Carter, who told them she would have to take Mr. Coffman into custody. (R. p. 1282, ll. 10-19). Both Mr. Coffman and Mr. Bell were shocked. (R. p. 1301, ll. 3-13). The officers brought out handcuffs immediately. (R. p. 1302, ll. 3-5). Mr. Bell asked a number of questions but could not get a straight answer. (R. p. 1282, l. 20 - p. 1283, l. 14). He described the interaction as an ambush, adding this is the only time a police officer lied to him about a turn-in. (R. p. 1316, l. 23 - p. 1317, l. 2; p. 1324, l. 20 - p. 1325, l. 5).

The next time Mr. Bell contacted Mr. Coffman was in bond court the next morning. (R. p. 1302, ll. 6-9). Mr. Bell was there with Mr. Coffman's family and Mr. Abercrombie. (R. p. 1302, l. 12 - p. 1303, l. 6; p. 1327, ll. 4-8). Neither the Smiths nor anyone from the police department was present. (R. p. 1303, ll. 7-12). Mr. Coffman was run down and had not had access to his medications. (R. p. 1303, l. 16 - p. 1304, l. 9). Judge Grimsley gave a PR bond and they were allowed to go. (R. p. 1327, ll. 6-8). For months after Mr. Coffman returned home he suffered "intense and prevailing anxiety" and was fearful of being arrested again. (R. p. 1306, ll. 5-22).

Mr. Bell obtained the evidence the officers had and opined that it did not "match up" to the arrest warrant. (R. p. 1283, l. 19 - p. 1285, l. 1; p. 1305, ll. 5-21). Mr. Bell interviewed witnesses and found no evidence that Mr. Coffman threatened Mr. Smith with the "fish bat." (R. p. 1285, ll. 3-15). The Town brought in Tabor Vaux to serve as a special prosecutor, who ultimately contacted Mr. Bell and wrote to him they were dismissing the charges. (R. p. 1285, l. 18 - p. 1286, l. 22; p. 1308, ll. 8-13; Exh. 23, R. pp. 1935-1937). Mr. Bell identified emails in which the Clerk of Court asked the Police Chief if they intended to dismiss the case after Mr. Vaux had made the decision. (R. p. 1289, l. 16 - p. 1292, l. 9; p. 1308, l. 14 - p. 1309, l. 14 ; Exh. 25, R. p. 1939-1944).

The ultimate disposition finally occurred on March 23, 2020, which was three months after Mr. Vaux's letter. (R. p. 1287, l. 25 - p. 1288, l. 8-15; p. 1309, l. 15 - p. 1310, l. 5). SLED would not process the expungement until after that date so that the charge was still publicly available for three months after the dismissal. (R. p. 1289, ll. 2-8). Mr. Bell stated this impacted Mr. Coffman's ability to work because potential partners would search the Internet and find out about the arrest. (R. p. 1310, ll. 18-25).

Stephanie Coffman

On the date of the incident they went for a late afternoon sunset cruise on the Beaufort River. (R. p. 1329, ll. 3-14). It was still daylight when they returned but could not dock because the "Bad Company" had overtaken them and gotten to the boat ramp first. (R. p. 1329, ll. 14-20). They decided to pull to the permanent dock right next to the boat ramps because they did not feel safe. (R. p. 1329, ll. 20-22; p. 1330, ll. 10-11; p. 1351, ll. 18-23). The Coffmans were with Mr. Abercrombie at the dock. (R. p. 1330, ll. 21-25).

The other boat offloaded three people and then went back out into the creek. (R. p. 1329, l. 23 - p. 1330, l. 1). Mr. Coffman decided to get his truck and trailer and back it down, but Mr. Lewis had already backed a truck down the ramp. (R. p. 1330, ll. 9-11, 24-25). He was weaving and taking all three lanes of the boat ramp, making it impossible for anyone else to back in. (R. p. 1330, ll. 11-15). The Coffmans decided to wait until they were done. (R. p. 1330, ll. 15-17). Mr. Coffman took their dog back up to his truck and retrieved the "fish bat" to put it back into the boat. (R. p. 1331, ll. 1-15; p. 1352, l. 9, 12-15).

Two women had gotten out of the Bad Company and were walking between the dock and the parking lot several times. (R. p. 1330, ll. 17-20). Mr. Coffman rejoined Ms. Coffman and Mr.

Abercrombie on the dock and the two women came down the dock and asked Mr. Coffman to step forward. (R. p. 1331, ll. 16-18, 21-24). They believed the women were going to ask Mr. Coffman to help them pull the Bad Company out of the water. (R. p. 1332, ll. 5-10). Mr. Abercrombie attempted to listen to the conversation and they saw Mr. Coffman pull his shirt up to show the women something. (R. p. 1332, ll. 1-5, 11-13; p. 1345, ll. 2-8).

It had been about 45 minutes to an hour and it was getting dark. (R. p. 1332, ll. 22-23; p. 1352, ll. 2-4; p. 1354, ll. 5-12). Mr. Smith was standing down by the ramp and one of the women whispered something in his ear. (R. p. 1333, ll. 2-4). Mr. Smith "turned around and came stomping down the walkway to the dock, screaming that he's going to kill us all, this old man, this Yankee, on and on, and proceeded to beat [Mr. Coffman]." (R. p. 1333, ll. 5-8).

Ms. Coffman was standing behind Mr. Coffman's left shoulder when Mr. Smith approached and began beating Mr. Coffman. (R. p. 1333, ll. 9-23). She did not have a phone with her but Mr. Abercrombie, who was standing to Mr. Coffman's right, called 911. (R. p. 1333, l. 24 - p. 1334, l. 4). The situation was chaotic and Mr. Abercrombie had trouble describing exactly where they were. (R. p. 1334, ll. 6-11). Mr. Smith was punching Mr. Coffman in the kidneys, head, and all over his body. (R. p. 1334, ll. 12-16; p. 1354, l. 22 - p. 1355, l. 2). He was also threatening to kill them all and throw them in the river. (R. p. 1334, ll. 16-19; p. 1355, ll. 16-18). Ms. Coffman was afraid because Mr. Coffman had a quadruple bypass and heart stents two years prior. (R. p. 1335, ll. 1-3; p. 1356, ll. 11-12).

Mr. Abercrombie saw a police car in the parking lot and had a sense of relief. (R. p. 1334, ll. 11-12, 20-23). However, the four people from the Bad Company were allowed to drive off "on their own in their condition." (R. p. 1335, ll. 8-10). The Coffmans had expected Mr. Smith to be

arrested but the officer told them "if I arrest him, I'll have to arrest you," and that stopped the process. (R. p. 1336, ll. 16-21). The Coffmans still had to retrieve their boat from the water and afterwards they went home. (R. p. 1335, ll. 10-15). Ms. Coffman did not look at Mr. Coffman's injuries until the next morning and he had bruises, cuts and scrapes on his body. (R. p. 1335, ll. 16-19; p. 1337, ll. 2-4; p. 1355, ll. 3-10).

The Coffmans wanted to see what the police wrote in their report. (R. p. 1336, ll. 11-12, 21-22). The attack occurred on a Saturday night so they had to wait until Monday to obtain a copy of the report. (R. p. 1336, ll. 7-10). They got only half the report and were told to come back the next day for the rest. (R. p. 1337, ll. 10-13). They saw the report contained words the Smiths had spoken as if they came from the Coffmans. (R. p. 1337l. 13-14). They then asked for camera footage and also went to the Beaufort County Sheriff's Office to get a copy of the 911 recording. (R. p. 1337, ll. 1-7, ll. 15-23; p. 1353, ll. 4-7). The Coffmans wrote statements that they gave to Captain Griffin. (R. p. 1337, l. 24 - p. 1338, l. 1; p. 1343, l. 22 - p. 1344, l. 1). They still did not get clarification. (R. p. 1338, ll. 2-4). The Coffmans spoke with Lieutenant Baird when they went to retrieve the 911 tape and told him what happened. (R. p. 1353, ll. 20-23). They repeated the story to Captain Mattox and lodged a complaint against Ms. Smith. (R. p. 1353, ll. 8-14; p. 1354, ll. 1-3).

About three weeks later Mr. Coffman called Ms. Coffman and told her the police were going to arrest him. (R. p. 1338, ll. 5-12). The next morning when he went to the police station Ms. Coffman expected him to appear and be placed on bond. (R. p. 1338, ll. 15-20). However, Mr. Bell called her and told her the police put handcuffs on him and took him away. (R. p. 1338, ll. 21-23; p. 1339, ll. 1-5). She was worried and in shock because of Mr. Coffman's heart condition and he did not have his medication or CPAP machine with him. (R. p. 1339, ll. 7-20). Later that evening a nurse

called her, told her Mr. Coffman's blood pressure was high, and asked her to bring his medication, which she did. (R. p. 1340, ll. 9-22).

Ms. Coffman attended the bond hearing the next morning. (R. p. 1340, l. 25 - p. 1341, l. 2). She also called friends and family to appear for support. (R. p. 1341, ll. 5-7). When Mr. Coffman came home he was in terrible shape. (R. p. 1341, ll. 13-15). He had high anxiety and felt threatened that the police could arrest him for any reason just for asking for clarification. (R. p. 1341, ll. 16-19). He was humiliated by being fingerprinted, had his mug shot taken, and being thrown in jail. (R. p. 1341, ll. 21-23). The experience took a toll on his health. (R. p. 1342, ll. 5-9). They never got peace of mind with the Port Royal Police Department. (R. p. 1343, ll. 1-3).

Jessica Bradley

Ms. Bradley was at the Pockey Island Sand Bar on July 6, 2019, with the Smiths and Mr. Lewis. (R. p. 1382, ll. 3-13). She had four or five beers while they were on the river. (R. p. 1382, ll. 14-18). The plan was for her to be the designated driver that day and she ultimately drove the truck home when they were done boating. (R. p. 1382, ll. 19-24).

When they returned to the dock to load the boat Ms. Bradley and Ms. Smith got off the boat. (R. p. 1382, l. 25 - p. 1383, l. 3). The two women began walking to the landing part and when they got there, Mr. Coffman approached them. (R. p. 1383, ll. 14-21). Mr. Coffman asked if they had a good day on the river. (R. p. 1383, ll. 22-24). Mr. Coffman asked if Ms. Smith's husband had been driving the boat and she said "yes." (R. p. 1384, ll. 4-8). Mr. Coffman then asked "why would you want to be married to someone like that that's out there in the river?" (R. p. 1384, ll. 8-9). He said something about wanting to beat Mr. Smith up. (R. p. 1384, ll. 9-11, 17-19). The two women then went to wait at the end of the dock. (R. p. 1384, ll. 11-16).

The next time they saw Mr. Coffman was when he passed them with his dog and walked to his vehicle. (R. p. 1384, ll. 20-23). As he walked back towards them he appeared to have something on the left side of his leg. (R. p. 1384, ll. 23-25; p. 1389, ll. 17-22). It was a dark object and the women wondered what he planned to do with it. (R. p. 1385, ll. 1-7). Ms. Bradley thought he was acting suspiciously. (R. p. 1389, 11-13).

The women went back to where Mr. Coffman was standing to ask him what he had in his hand. (R. p. 1385, ll. 13-19; p. 1391, ll. 15-22). Mr. Coffman was calm (R. p. 1396, ll. 6-8) but became agitated when they confronted him and he showed them a radio he wore. (R. p. 1386, ll. 2-5; p. 1396, ll. 6-11). He continued to hide what was in his hand so they asked to see it. (R. p. 1386, ll. 5-9). He showed it to them and told them it was a "fish bat." (R. p. 1386, ll. 8-13). She was unsure how long it was, describing it as "a foot and half long, two foot long, or three foot, I'm not really sure...." (R. p. 1386, ll. 16-18). When asked if it was like "a miniature baseball bat," she responded "Yeah, like a police bat, kind of like how they have on their hip, about the same size."(R. p. 1386, ll. 19-22).

The women asked Mr. Coffman what he intended to do with the "bat" and he told them he planned to take it to his boat. (R. p. 1386, l. 23 - p. 1387, l. 3; p. 1392, ll. 12-22; p. 1393, ll. 5-23). When he became agitated Ms. Bradley mentioned that Ms. Smith was a police officer. (R. p. 1387, ll. 4-20; p. 1393, ll. 3-4; p. 1393, l. 24 - p. 1394, l. 23). Once Mr. Coffman went back down to the dock he never approached Ms. Bradley or Ms. Smith. (R. p. 1391, l. 23 - p. 1392, l. 8).

The two women then walked back to the end of the dock near the landing and saw that Mr. Smith was finished loading his boat. (R. p. 1388, ll. 1-7). They saw Mr. Smith go down the ramp to approach Mr. Coffman but did not see the altercation because they were more focused on the truck

and the boat. (R. p. 1388, ll. 8-14). Ms. Bradley "spun around" and "noticed that the bat fell in the water." (R. p. 1388, ll. 15-16). She did not know whether Mr. Smith threw the "bat" in the water. (R. p. 1388, ll. 17-20). The two women noticed a Port Royal Police Officer was at the landing so they approached him. (R. p. 1388, l. 21 - p. 1389, l. 10).

Sergeant Peter Bunting

Sergeant Bunting has been employed with the Town of Port Royal Police Department since 2019. (R. p. 1399, ll. 13-23). On July 6, 2019, he was on a routine patrol and when he arrived in the area he saw a "commotion" on the dock where the boats load and unload. (R. p. 1400, ll. 5-13). Two women approached him and told him there was an altercation involving one of the women's husband. (R. p. 1400, ll. 13-15). Sergeant Bunting observed Mr. Smith throw a "fish bat" into the water. (R. p. 1401, ll. 3-7). Mr. Smith then approached and told Sergeant Bunting "that he basically had just launched someone with a bat because he was coming at him." (R. p. 1400, ll. 15-19). Sergeant Bunting then spoke with Mr. Coffman who told him there was an argument over "parking boats" and he had a "bat" he was going to put back into his boat when he was attacked. (R. p. 1400, ll. 19-23; p. 1401, l. 20 - p. 1402, l. 1).

Sergeant Bunting called for additional units and Sergeant Kadas and Staff Sergeant Dowling arrived. (R. p. 1400, ll. 23-25; p. 1401, ll. 8-13). Sergeant Bunting asked Mr. Smith and Mr. Coffman if either wanted to press charges and both declined. (R. p. 1400, l. 25 - p. 1401, l. 2). Sergeant Bunting offered medical assistance to Mr. Coffman but he declined. (R. p. 1401, ll. 14-19). Both men left without further incident. (R. p. 1402, ll. 5-11).

Sergeant Bunting was at the scene for 30 to 45 minutes. (R. p. 1402, ll. 2-4). He created a report in which he estimated the distance from where the Smiths were standing to where Mr.

Coffman was standing on the dock was 25 yards. (R. p. 1406, ll. 2-12). He recalled Mr. Smith stating that he felt threatened and that was why he "disarmed" Mr. Coffman of the "bat." (R. p. 1402, ll. 15-20). In the report Sergeant Bunting described Mr. Coffman as "the victim in the case" and added "apparent minor injury" was visible. (R. p. 1405, ll. 4-18). In the report he described the case as "exceptionally cleared," meaning "no one wanted to prosecute, so we cleared it, we closed it, with no charges." (R. p. 1402, l. 21 - p. 1403, l. 2).

ARGUMENTS

I. THE TRIAL COURT CORRECTLY DENIED APPELLANTS' MOTIONS FOR DIRECTED VERDICT AND JNOV ON RESPONDENT'S STATE AND FEDERAL CLAIMS

Appellants argue two bases for this Court to reverse the trial court's decision to deny their motions for directed verdict and JNOV. The Court should not be persuaded by either argument.

A. The Lack of Probable Cause to Arrest Respondent

Appellants contend "the record reflects that the Appellants were entitled to a directed verdict and JNOV on the issue of probable cause." (App. Br. p. 8). They claim under an "objective standard," *i.e.*, "whether facts within the officer's knowledge would lead a reasonable person to believe an individual was guilty of a crime" (App. Br. pp. 7-8), that is, assault and battery, third degree. (App. Br. p. 14). Appellants present the issue as if the *only* evidence in the case is that Detective Carter "performed a thorough investigation" (App. Br. pp. 10-13) and based her determination to seek a warrant on listed "inconsistencies" in Mr. Coffman's version of events. (App. Br. pp. 13-14). The Court should not be persuaded by this argument.

Probable cause is a good faith belief that a person is guilty of a crime when this belief rests on such grounds as would induce an ordinarily prudent and cautious man, under the circumstances, to believe likewise. *Gathers v. Harris Teeter Supermarket, Inc.*, 282 S.C. 220, 317 S.E.2d 748 (Ct. App. 1984). South Carolina follows the minority rule that the issue of probable cause is a question of fact and ordinarily one for the jury. *Jones v. City of Columbia*, 301 S.C. 62, 389 S.E.2d 662 (1990). The *Jones* Court rejected the majority rule "that the issue of whether there is probable cause is a mixed question of law and fact, to be decided in some instances only by the judge and in others by a combination of judge and jury." *Jones*, at 65, 389 S.E.2d at 663. *See also Wortman v.*

Spartanburg, 310 S.C. 1, 425 S.E.2d 18 (1992) (in South Carolina the issue of probable cause is a question of fact and ordinarily one for the jury; Court reversed the grant of summary judgment for City because there were genuine issues of material fact at to whether the City's arrest of Wortman was lawful); *Gathers v. Harris Teeter*, at 228, 317 S.E.2d at 754 ("The issue of probable cause is essentially a question of fact and ordinarily for the determination of the jury"). In determining whether the trial court correctly denied Appellants' motion for directed verdict this Court must consider the evidence and all reasonable inferences which can be drawn therefrom in the light most favorable to Mr. Coffman. *Jones*.

Appellants assert that probable cause "may be decided as a matter of law when the evidence yields but one conclusion," citing to *Jackson v. City of Abbeville*, 366 S.C. 662, 623 S.E.2d 656 (Ct. App. 2005). (App. Br. p. 9). *Jackson*, however, is distinct from this case in very meaningful ways. Jackson entered a convenience store located in Abbeville, and asked the attendant whether he could put up a flyer in the store for a party he was having at his club. The attendant said he could not. Jackson became enraged, accusing the attendant of racism. She asked Jackson to leave the premises. Jackson refused to leave, and the attendant called the police.

When the officer arrived, Jackson repeatedly interrupted the officer while he was attempting to speak with the attendant. The officer told Jackson to be quiet several times, but Jackson refused to do so. The attendant again told Jackson to leave the premises. When Jackson refused to leave, the officer put Jackson on trespass notice. Jackson continued to interrupt. The officer told Jackson to be quiet or he would be arrested. Jackson ignored the officer's repeated demands, and the officer attempted to place him under arrest. A scuffle ensued as Jackson resisted and backup was summoned to effect the arrest. After being arrested and taken to jail, Jackson was charged with disorderly

conduct and resisting arrest. Jackson was not charged with trespass after notice. The municipal judge dismissed the charges.

The "dispositive" or "narrow" issue on appeal was whether "it is permissible to rely on an uncharged offense to establish probable cause." *Jackson*, at 669, 623 S.E.2d at 660. The only evidence in the record was that Jackson had violated the trespass after notice statute in the presence of the officer, who had issued the trespass notice and warned Jackson to be quiet while the officer attempted to speak with the clerk. The Court found when viewed in the light most favorable to Jackson, "the facts known to the officer 'would induce an ordinarily prudent and cautious man, under the circumstances, to believe' that Jackson had committed the offense of trespass after notice." *Jackson*, at 670, 623 S.E.2d at 660.

The record in this case, however, contains more than sufficient testimony entered without objection for the jury to conclude that Detective Carter lacked probable cause to arrest Mr. Coffman for assault and battery, third degree. Unlike the officer in *Jackson*, the offense did not occur in Detective Carter's presence. Furthermore, the testimony conflicted, most notably Mr. Smith's contention that Mr. Lewis yelled "look out" even though Mr. Lewis had told Detective Carter that he did not see anything.

Furthermore, Mr. Coffman was told by someone at the Port Royal Police Department that there was no probable cause to arrest anyone. (R. p. 1003, ll. 10-13). Mr. Dowling, a former Port Royal police officer, testified at length that there was no evidence of a threat of harm to Mr. Smith nor probable cause to arrest Mr. Coffman. (R. pp. 1086-1097). Captain Griffin testified there was nothing in Officer Bunting's initial or supplemental reports or statements from any of the witnesses "that would give rise to any sort of probable cause for the arrest." (R. p. 1165, l. 1 - p. 1166, l. 25;

p. 1168, ll. 1-10; p. 1169, ll. 17-20; p. 1171, l. 22 - p. 1173, l. 10; p. 1178, ll. 13-21; p. 1181, ll. 4-7; p. 1181, l. 13- p. 1183, l. 22). Officer Steady testified he did not agree that there was a reason to arrest either party in the attack from the information he had been presented at the time (R. p. 1243, l. 25 - p. 1244, l. 8; p. 1244, l. 22 - p. 1245, l. 6; p. 1249, ll. 16-21), and that he would not have presented the case for a warrant. (R. p. 1249, ll. 2-5, 11-15). Detective Carter herself agreed that at no point did Mr. Coffman seek out or make a direct threat to Mr. Smith. (R. p. 1727, ll. 20-25; p. 1743, ll. 15-24; p. 1759, ll. 3-4). In fact, Detective Carter admitted she sought the warrant based on information that the evidence establishes she already knew at the time she reopened the case, and for which the Town through Captain Griffin, its Rule 30(b)(6) witness, admitted there was no probable cause. (R. p. 1694, ll. 4-8; p. 1708, ll. 10-15; p. 1729, ll. 13-16; p. 1730, ll. 21-23). This testimony suffices to support the trial court's rejection of Appellants' motions for directed verdict and JNOV on the argument that the only evidence in the record was that Detective Carter had probable cause to seek the warrant for Mr. Coffman's arrest for assault and battery, third degree.

Appellants assert that a "neutral and detached judge found probable cause," implying that this somehow established probable cause as a matter of law. (App. Br. p. 10). Again, there was evidence that the warrant contained misstatements and omissions, and had Detective Carter given the magistrate the full and correct information, no warrant would have issued. (R. p. 1089, l. 21 - p. 1090, l. 14; p. 1090, l. 18 - p. 1091, l. 14; p. 1091, ll. 6-16; p. 1092, l. 17 - p. 1093, l. 10; p. 1093, l. 8 - p. 1094, l. 1; p. 1124, ll. 1-5; p. 1094, ll. 5-8; p. 1094, ll. 9-14; p. 1094, l. 15 - p. 1095, l. 4; p. 1095, ll. 5-13; p. 1097, ll. 4-11; p. 1095, ll. 17-18; p. 1123, ll. 7-11; Exh. 19, R. p. 1932). Detective Carter testified that at no point did Mr. Coffman seek out or make a direct threat to Mr. Smith (R. p. 1727, ll. 20-25; p. 1743, ll. 15-24; p. 1759, ll. 3-4) but she did not include this in her report to the

magistrate. She also did not relay the abundant evidence that Mr. Coffman was far away from the Smiths, and that it was the Smith party (and Mr. Smith in particular) who walked that distance to Mr. Coffman and initiated the confrontation that led to the attack. (R. p. 1734, ll. 2-5). Detective Carter testified she knew that Mr. Smith attacked Mr. Coffman, but she omitted this from the application for the warrant. (R. p. 1728, ll. 14-19; R. p. 1734, ll. 2-5). Instead, she stated falsely that Mr. Coffman "threatened to cause harm to [Mr. Smith] while armed with a bat," and agreed that if that statement had not been in the warrant that would have affected the judge's determination on making probable cause. (R. p. 1734, ll. 6-17). She did not recall what she told the judge, but agreed if she had told the judge anything beyond what was in the warrant she would have put it in her report and the information in the warrant is the information she presented to the judge. (R. p. 1735, ll. 13-20; p. 1736, ll. 7-10; Exh. 3, R. p. 1787).

The court instructed the jury that the elements of assault and battery, third degree, are: "a person commits the offense of assault and battery in the third degree if the person unlawfully injures another person, or offers or attempts to injure another person with the present ability to do so." (R. p. 1499, ll. 6-10). The jury heard the testimony from every witness that Detective Carter was aware that Mr. Coffman did not have the present ability to unlawfully injure Mr. Smith and that Mr. Smith never felt threatened with injury, and resolved the factual issue of probable cause against Appellants. This Court should affirm.

B. Qualified Immunity

Appellant Carter contends on appeal that the circuit court should have dismissed the matter under the doctrine of qualified immunity. (App. Brief pp. 14-20). There were genuine issues of material fact that undercut Appellant Carter's assertion of qualified immunity so that the circuit court

properly denied the motion and submitted the issue to the jury.[3]

Appellant Carter raised the issue of qualified immunity in her Motion to Dismiss (R. pp. 116, 118-119), her Answer (R. p. 89, ¶ 67), and in her motion for summary judgment. (R. p. 116, 118-119). The circuit court granted summary judgment as to the false arrest/imprisonment and loss of consortium claims, but otherwise denied summary judgment and the motion to dismiss. (R. p. 1). Appellant Carter moved to reconsider, and again raised qualified immunity. (R. pp. 456, 459). On June 11, 2024, the court denied the motion. (R. p. 4).

At the close of Mr. Coffman's case, Appellant Carter argued "there's no evidence that qualified immunity wouldn't apply here." (R. p. 1365, ll. 6-7). She contended there had to be evidence that "the officers acted outside of their scope when they were investigating this case." (R. p. 1365, ll. 7-10). The court took the matter under advisement and proceeded with the defense case.

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[3] Denial of the motion to dismiss was conclusive as to Detective Carter's right to qualified immunity. *Behrens v. Pelletier*, 516 U.S. 299, 308 (1996). *See also Mitchell v. Forsyth*, 472 U.S. 511, 526 (1985) (the immunity is entitlement not to stand trial or face the other burdens of litigation, conditioned on the resolution of the essentially legal immunity question; the denial of a claim of qualified immunity, insofar as it turns on an issue of law, is an appealable "final decision" within the meaning of 28 U.S.C. § 1291 notwithstanding the absence of a final judgment). The orders denying the motion to dismiss and the motion for summary judgment on the ground of qualified immunity were immediately appealable. Appellant Carter's failure to take the immediate appeal likely waived the issue since the doctrine, which protects an officer from all aspects of litigation including pleading and discovery, affects the mode of trial. *See, e.g., Neeltec Enterprises, Inc. v. Long*, 397 S.C. 563, 567, 725 S.E.2d 926, 928-929 (2012) (Supreme Court held pre-trial order of substitution of party fell within the purview of S.C. Code Ann. § 14-3-330(2)(a) and therefore must be immediately appealed if it is to be considered at all; Court stated there is no review available after final judgment, that is, "failure to take such immediate appeal would bar consideration of the order in an appeal from final judgment"); *Hagood v. Sommerville*, 362 S.C. 191, 607 S.E.2d 707 (2005) (pre-trial order disqualifying party's chosen attorney is immediately appealable under § 14-3-330(2), and must be immediately appealed); *Creed v. Stokes*, 285 S.C. 542, 331 S.E.2d 351 (1985) (order denying mode of trial to which appellant is entitled as a matter of right may be immediately appealed under § 14-3-330(2)(a), and the failure to take such an immediate appeal waives the issue).

(R. p. 1379, ll. 3-7; p. 1380, ll. 11-13). Detective Carter summarily renewed her motions at the end of her case. (R. p. 1407, ll. 3-7). The court denied the motion. (R. p. 1417, ll. 2-11).

Appellant Carter then raised summarily qualified immunity in her post-verdict motion for judgment notwithstanding the verdict. (R. p. 544Motion of 7/1/24, p. 2, ¶ 3). Once again the trial court denied the motion. This Court should affirm.

Qualified immunity protects officers who commit constitutional violations but who, in light of clearly established law, could reasonably believe their actions were lawful. *Henry v. Purnell*, 652 F.3d 524 (4th Cir. 2011). *See also Benton v. Layton*, 139 F.4th 281 (4th Cir. 2025) (qualified immunity shields officials from civil liability so long as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known). It protects all but the plainly incompetent or those who knowingly violate the law. *Benton v. Layton*. "Qualified immunity does not permit law enforcement to act with impunity, throwing our nation's constitutional commitments to the winds of individual discretion. But it does require fair notice of the landscape of the law to those who must enforce it." *Somers v. Devine*, 132 F.4th 689, 695-696 (4th Cir. 2025).

Whether a police officer is entitled to qualified immunity requires a two-prong analysis: (1) Did the officer violate a constitutional or statutory right? and (2) Was the right *clearly established* at the time the officer acted? *Benton v. Layton*; *Belton v. Loveridge*, 129 F.4th 271, 277 (4th Cir. 2025). "These questions need not be answered sequentially, and if either is determined in the negative, the claims must be dismissed." *Somers v. Devine*, 132 F.4th at 696. *See also Camden v. Hilton*, 360 S.C. 164, 177-178, 600 S.E.2d 88, 94-95 (Ct. App. 2004) (the doctrine of qualified immunity shields police officers acting in their official capacity from suits for damages under 42

U.S.C. § 1983, unless their actions violate clearly-established rights of which an objectively reasonable official would have known).

Qualified immunity is meant to give government officials a right, not merely to avoid "standing trial," but also to avoid the burdens of "such *pretrial* matters as discovery ..., as '[i]nquiries of this kind can be peculiarly disruptive of effective government." *Behrens v. Pelletier*, 516 U.S. 299, 308 (1996), citing *Harlow v. Fitgerald*, 457 U.S. 800 (1982) and *Mitchell v. Forsyth*, 472 U.S. 511 (1985). Denial of a motion to dismiss is conclusive as to this right. *Behrens. See also Mitchell*, 472 U.S. at 526 (the immunity is entitlement not to stand trial or face the other burdens of litigation, conditioned on the resolution of the essentially legal immunity question; the denial of a claim of qualified immunity, insofar as it turns on an issue of law, is an appealable "final decision" within the meaning of 28 U.S.C. § 1291 notwithstanding the absence of a final judgment); *Behrens*, at 305-306 (citing *Mitchell* that a rejection of a defendant's qualified-immunity defense is a "final decision" subject to immediate appeal under 28 U.S.C. § 1291)).

Detective Carter violated Mr. Coffman's constitutionally protected right against unlawful seizure under the Fourth Amendment. There was evidence that the right was clearly established at the time she obtained the warrant without providing full information to the magistrate and providing information that was misleading, and then arresting Mr. Coffman. These were factual issues that the jury resolved against her, and the jury's decision is supported by overwhelming evidence outlined above. Even so, in denying JNOV, the court ruled "the facts and circumstances as a whole, in totality, support a finding of this court that the Officer's actions were not objectively reasonable." (R. p. 15). On reconsideration, the court added "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." (R. pp. 25-26).

Detective Carter argues that even if a jury finds a lack of probable cause, she is still protected by qualified immunity for her "mistake." (App. Br. pp. 19-20). Again, this was an issue of fact for the jury to resolve. The court instructed the jury "[a]n action for false imprisonment cannot be maintained where the Plaintiff was arrested by lawful authority" (R. p. 1496, ll. 8-10) and "want of probable cause is an essential element in a malicious prosecution case." (R. p. 1497, ll. 7-9). The court charged the jury that in considering punitive damages, "the evidence must establish [Detective Carter's] acts [were] reckless, willful and wanton, meaning there was a conscious failure ... to exercise due care [or] a conscious indifference to the rights and safety of others or reckless disregard thereof." (R. p. 1499, l. 22 - p. 1500, l. 1). There were no objections to any of the instructions. (R. p. 1514, ll. 8-12). The jury found Detective Carter's actions were willful, wanton and/or reckless and awarded punitive damages and the trial court reviewed the award pursuant to *Gamble v. Stevenson*, 305 S.C. 104, 406 S.E.2d 350 (1991), finding it appropriate. (R. p. 1522, l. 24 - p. 1524, l. 5). That is, the jury determined this was not a mere "mistake" and the trial court agreed in his post-verdict review that the evidence supported the jury's decision.

The Court should reject Appellants' contention that Detective Carter was entitled to qualified immunity as a matter of law.

C. State Law Claims

Appellants contend that because the record establishes probable cause as a matter of law, and the court "tied the negligence cause of action to the existence of probable cause," the Town was

entitled to JNOV. (App. Br. p. 20-21, 24). Appellants assert the court erred in failing to undertake an inquiry under *Franks v. Delaware*, 438 U.S. 154 (1978), and further essentially permitted the jury to bring a verdict under a "negligence arrest" theory, which is not recognized in South Carolina. (App. Br. pp. 20-22). The Court should not be persuaded by these arguments.

First, as set forth above, the jury resolved the issue of the lack of probable cause against Appellants, and the record supports that decision. Second, Appellants did not raise these points in their motion for directed verdict. (R. pp. 1359-1365, 1407-1418). *See RFT Mgmt. Co. v. Tinsley & Adams L.L.P.*, 399 S.C. 322, 331, 732 S.E.2d 166, 171-172 (2012) (only those grounds raised in the directed verdict motion may properly be reasserted in a JNOV motion). The arguments are therefore not available on appeal. *Caldwell v. Wiquist*, 402 S.C. 565, 741 S.E.2d 583 (Ct. App. 2013) (where an issue has not been raised in a post-trial motion the issue may not be considered on appeal).

Even so, the trial court ruled there was "substantial evidence in the record which shows [Detective Carter] withheld or otherwise omitted and fundamentally mischaracterized ... the nature of the evidence, and specifically the fact that Mr. Coffman never actually directly threatened anybody whatsoever." (R. p. 1411, l. 25 - p. 1412, l. 6). In the amended order denying JNOV, the court found "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." (R. pp. 26, 29).

The existence of probable cause was submitted for the jury's determination and the jury ruled against Appellants. The trial court refused to invade that decision, and this Court should follow suit and affirm.

II. THE TRIAL COURT DID NOT ABUSE ITS DISCRETION IN ITS AWARD OF ATTORNEY'S FEES AND COSTS

Appellants contend the trial court's award of attorney's fees and costs must be reversed. They first assert that because they should prevail as a matter of law on the issue of qualified immunity, the award of fees and costs may not stand. (App. Br. p. 25). Alternatively, they contend the trial court made several errors in its award of fees and costs under 42 U.S.C. § 1988. This Court should affirm the award.

Section 1988(b) provides:

> In any action or proceeding to enforce a provision of section [ ] ... 1983 ..., the court, *in its discretion*, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs....

42 U.S.C. § 1988 (emphasis added); *Hueble v. SC Dept. of Nat. Resources*, 416 S.C. 220, 225 n. 3, 785 S.E.2d 461, 463 n. 3 (2016). The purpose of this statute was to incentivize attorneys to litigate civil rights cases. *Hueble*.

A plaintiff must have prevailed on some significant issue in the litigation which achieves some of the benefit the plaintiff sought in bringing the case to be entitled to a fee award. *Hensley v. Eckerhart*, 461 U.S. 424, 433 (1983). A party in whose favor a judgment is rendered, regardless of the amount of damages awarded, is a prevailing party for purposes of Section 1988. *Hueble*. Mr. Coffman achieved some, if not all, of the benefit he sought in bringing this case such that he is the "prevailing party" and is entitled to an award of fees and costs under Section 1988.

As the Supreme Court in *Hensley* instructed:

> Where a plaintiff has obtained excellent results, his attorney should recover a fully compensatory fee. Normally this will encompass all hours reasonably expended on the litigation, and indeed in some cases of exceptional success an enhanced award may be justified. In these circumstances the fee award should not be

> reduced simply because the plaintiff failed to prevail on every contention raised in the lawsuit. (citation omitted) Litigants in good faith may raise alternative legal grounds for a desired outcome, and the court's rejection of or failure to reach certain grounds is not a sufficient reason for reducing a fee. The result is what matters.

Hensley, at 435.

The preferable method for determining a reasonable fee under a fee shifting statute is the lodestar approach. *Perdue v. Kenny A.*, 559 U.S. 542, 550-551 (2010). A lodestar figure is designed to reflect the reasonable time and effort involved in litigating a case, and is calculated by multiplying a reasonable hourly rate by the reasonable time expended. *Layman v. State*, 376 S.C. 434, 658 S.E.2d 320 (2008). This method looks to the prevailing market rates in the relevant community to produce an award that roughly approximates the fee that the prevailing attorney would have received if the attorney had been representing a paying client on an hourly billing in a comparable case. *Perdue*, at 551-552. The lodestar method is also objective and readily administrable. *Perdue*, at 552.

A "reasonable" fee is one that is sufficient to induce a capable attorney to undertake the representation of a meritorious civil rights case. *Id.* The lodestar method yields a fee that is presumptively sufficient to achieve this objective. *Id. Compare* Rule 1.5(a), RPC, Rule 407, SCACR (setting forth 8 factors for judging the reasonableness of a fee and expenses).

Counsel represented Mr. Coffman for four years, three of which were in litigation. They fended off an attempt at removal to federal court as well as numerous attempts to dismiss the matter (each of which included defense requests for reconsideration). These efforts involved extensive briefing on several complex and important constitutional issues. They engaged in extensive discovery, taking multiple depositions and obtaining a multitude of exhibits in establishing an extensive factual record. The trial of the case lasted one week before the jury returned its verdict for

Mr. Coffman.

The case itself involved several complex legal issues, including multiple defenses Detective Carter raised, including qualified immunity. This required establishing malice on her part through an absence of probable cause. Counsel had to locate, interview and depose witnesses, obtain video evidence and photographs of the scene, and analyze thousands of pages of discovery. Counsel's efforts required devotion to this case to the exclusion of other work.

Counsel submitted a memorandum in support of the motion for fees which contained the following exhibits. (1) Affidavit of Neal M. Lourie, Esquire (supporting a rate not less than $400 for lawyers and $125-$175 for assistants) (Exh. 1, R. p. 488); (2) Affidavit of Keith M. Babcock, Esquire (supporting a rate of $300 for lawyer Grady Patterson) (Exh. 2, R. p. 494); (3) Affidavit of Joel S. Hughes, Esquire (supporting an hourly rate of $400 to $750 for experienced counsel, $250 to $400 for associates and $125-$175 for assistants)(Exh. 3, R. p. 500); (4) An itemized time sheet showing hours spent for lawyers Thad Myers (86.1), JJ Shellenberg (412.65), Josh Golson (389) and Grady Patterson (118.5)(Exh. 4, R. p. 506); (5) Affidavit of Thad L. Myers, Esquire seeking a $650 hourly rate (Exh. 5, R. p. 512); (6) Affidavit of Jeremiah "JJ" Shellenberg, Esquire, seeking a $350 hourly rate (Exh. 6, R. p. 517); (7) Affidavit of Joshua Golson, Esquire, seeking a $400 hourly rate (Exh. 7, R. p. 521); (8) Affidavit of Grady Patterson, Esquire, seeking a $300 hourly rate (Exh. 8, R. p. 525); and (9) an itemized statement of costs advanced for the case exceeding $15,000 (Exh. 9, R. pp. 529-543). (R. pp. 469-543). These affidavits supported the customary fee for like work in the relevant community.[4]

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[4] Appellants assert the affidavits do not describe knowledge of the Beaufort County legal community. (App. Br. pp. 26, 27). The standard for the practice of law, however, is statewide, not local. *Cf. Smith v. Haynesworth, Marion, McKay & Geurard*, 322 S.C. 433, 437-438, 472

Mr. Coffman sought an award of fees totaling $410,792.50. (Memo filed 7/1/24, p. 7). Mr. Coffman analyzed the matter under the twelve factors set forth in *Johnson v. Georgia Hwy. Express, Inc.*, 488 F.2d 714 (5th Cir. 1974) embraced by *Barber v. Kimbrell's, Inc.*, 577 F.2d 216 (4th Cir. 1978).[5] The trial court initially awarded only $33,333.33 representing one-third of the verdict against Detective Carter and costs of $14,351.72. (R. pp. 20-21). Mr. Coffman sought reconsideration. (R. pp. 794-812). The court entered a more comprehensive order amending its prior order. The court held:

> Having heard this matter and considering all applicable factors the Court finds that the overall amount of time spent on this matter was slightly excessive and unreasonable, and that a ten percent reduction in hours billed is a reasonable reduction that meets the ends of justice in this case.

(R. p. 41). The Court therefore found the reasonable hours spent on the case was 1,004.625. (R. p. 41).

The Court then turned to the reasonable rate and concluded the rates submitted were reasonable. (R. pp. 42-45). Thus, the lodestar was $369,713.30, which "reflects the reasonable number of hours expended on this litigation multiplied by the reasonable hourly rates." (R. p. 46). The Court also found "the state and federal claims were inherently related to a sufficient degree that

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S.E.2d 612, 614 (1996) (rejecting a "locality" rule in a legal malpractice case and holding the standard is statewide).

[5] The Supreme Court in *Perdue* criticized the *Johnson* method as giving "very little actual guidance to district courts." *Perdue*, at 550-551. The Court added "[s]etting attorney's fees by reference to a series of sometimes subjective factors placed unlimited discretion in trial judges and produced disparate results." *Id. See, also, Blanchard v. Bergeron*, 489 U.S. 87 (1989) (Supreme Court abrogated a portion of *Johnson* that limited an award in a contingency fee case to the amount the litigant would have been contractually bound to pay). Still, Mr. Coffman's counsel used the *Johnson* framework to assist the trial court in judging reasonableness. (R. pp. 477-485; pp. 800-811).

the fees were justified upon the litigation of the totality of the facts and evidence presented at trial." (R. pp. 47-48). Finally, the Court found Mr. Coffman achieved "all the relief the law allows to one injured as he was so injured, to include an award of punitive damages on the federal claims under 42 U.S.C. § 1983." (R. p. 49).

Regarding costs, the Court noted Mr. Coffman waived some costs he initially sought and found the remaining costs sought of $10,057.78 were reasonable. (R. pp. 49-50).[6]

Appellants claim Mr. Coffman's lawyers failed to provide sufficient evidence to support their hourly rates. (App. Br. pp. 25-27). Appellants assert the documentation was inadequate because the lawyers failed to submit "contemporaneous billing records" and did not adequately respond to subpoenas for those records.[7] (App. Br. pp. 29-31). They also assert the claims included duplication of services because multiple counsel claimed time for numerous tasks. (App. Br. pp. 31-32). Lastly, they claimed counsel was not permitted to claim travel time because Mr. Coffman had hired lawyers outside of the judicial circuit. (App. Br. pp. 33-34). Appellants made all of these arguments to the trial court (R. pp. 644-685), and the court ultimately reduced the claimed time by 10%. This was within the court's sound discretion. This Court should affirm.

As for Mr. Coffman hiring counsel from Columbia, Mr. Coffman testified "after talking to as many attorneys as we had at Beaufort, we had little confidence that someone was going to jump

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[6] Mr. Coffman's counsel also waived a number of hours as outlined in each affidavit attached to the Motion for Fees and Costs. (R. p. 476-477; Exhs. 5, 6, 7, and 8, R. pp. 512-543). This included waiving most of the hours for Mr. Shellenberg for 2020. (Exh. 4, R. p. 506). Further, many of the entries denote a reduction of 20%, 25%, 33% or 50% of the time actually spent. (Exh. 4, R. p. 506).

[7] Mr. Coffman's counsel provided copies of detailed billing records to Appellants' counsel with redactions removing trial strategy information. Appellants' contended those records were insufficient. (R. pp. 651-652).

in there at the last minute and help us." (R. p. 1014, ll. 5-7).

Appellants finally challenge the costs awarded. (App. Br. pp. 34-37). Appellants made these same arguments to the trial court. (R. pp. 644-660). Mr. Coffman's counsel then waived many of the items Appellants included in their challenge below, and the Court reduced the award accordingly. (R. pp. 49-50).[8] This was within the court's discretion. *See Black v. Roche Biomedical Labs.*, 315 S.C. 223, 229, 433 S.E.2d 21, 25 (Ct. App. 1993) (applying an abuse of discretion in reviewing an award of costs); *Peterson v. Nat'l R.R. Passenger Corp.*, 365 S.C. 391, 402, 618 S.E.2d 903, 908 (2005) ("An appellate court will not overturn a [circuit] court's decision to award costs unless there has been an abuse of discretion.").

[8] Some of the costs listed in 42 U.S.C. § 1920 make no sense in a case tried in state court. For instance, the statute includes "fees of the ... marshal," "docket fees," and other fees permitted under federal statutes. Costs recoverable in South Carolina are set forth in Rule 54, SCRCP. *Black v. Roche Biomedical Labs*, 315 S.C. 223, 433 S.E.2d 21 (Ct. App. 1993).

CONCLUSION

For the reasons stated this Court should affirm the judgment below.

Respectfully submitted,

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