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**SC Court of Appeals**

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STATE OF SOUTH CAROLINA )  
COUNTY OF CHARLESTON )

IN THE CIRCUIT COURT

JOEL NDUNDA )  
PLAINTIFF )

TRANSCRIPT OF RECORD  
CASE NO: 2025-CP-10-3621

-VS- )  
BRANDI PFEIL, LP-A, ET AL )  
DEFENDANT )

October 9, 2025

**B E F O R E:**

**HONORABLE EUGENE P WARR, JUDGE**

**A P P E A R A N C E S:**

**PRO SE**

**ZACHARY M KERN, ESQUIRE**

**CLEMENT RIVERS, LLP**

**ATTORNEY FOR THE DEFENDANT**

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<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
NONE			

1                   **THE COURT:**        This next matter is Joel Ndunda  
2 **versus Charleston Dorchester Mental Health, is that correct?**

3                   MR. NDUNDA:        Yes.

4                   **THE COURT:**        Okay. And Mr. Ndunda, are you  
5 **representing yourself, sir?**

6                   MR. NDUNDA:        Yes, sir. I'm pro se. Yes, Your  
7 Honor.

8                   **THE COURT:**        Mr. Kern, you are here on behalf of  
9 **Charleston Dorchester Mental Health. Is that correct?**

10                  MR. KERN:        Yes, Your Honor, and this is the  
11 Defendant's motion to dismiss and motion to strike punitive  
12 damages.

13                  **THE COURT:**        Okay. Let me ask y'all this, do we have  
14 **everybody on board that we need to have? Are we missing -- am**  
15 **I missing anyone that needs to be here with us?**

16                  MR. NDUNDA:        No, Your Honor.

17                  **THE COURT:**        Okay. Very well. Mr. Kern, it's your  
18 **motion.**

19                  MR. KERN:        Thank you, Your Honor. May I please the  
20 court.

21                  **THE COURT:**        I just want to tell Mr. Ndunda -- Mr.  
22 **Ndunda the way this will go is I know you're not an attorney,**  
23 **so I want to tell you this. Once he's gone, then I'll hear**  
24 **from you in the response.**

25                  MR. NDUNDA:        Understood. Understood, Your Honor.

1                   **THE COURT: Mr. Kern, I'm sorry. Didn't mean to**  
2 **interrupt you go ahead.**

3                   MR. KERN: No problem, Your Honor. May I please the  
4 court. Zack Kern here for the defendants in this matter.  
5 Your Honor, real quick matter of housekeeping. Obviously, Mr.  
6 Ndunda is pro se, so this is through no fault of his own. But  
7 the proper defendant here is actually the South Carolina  
8 Department of Behavioral Health and Developmental  
9 Disabilities. Which is just basically the new name for the  
10 South Carolina Department of Mental Health.

11                   **THE COURT: Give me that again, I'm sorry.**

12                   MR. KERN: Sure. That's a long one. It's South  
13 Carolina Department of Behavioral Health and Developmental  
14 Disabilities. That was changed back in May. It's just the  
15 new name for the former South Carolina Department of Mental  
16 Health. And then the individual defendants in the caption, it  
17 says C Magarty, that's for Caitlyn Magarty. And she's an  
18 employee of the department, and so is Brandi Pfeil. So I just  
19 wanted to bring that to the court's attention. It's a simple  
20 matter of housekeeping.

21                   **THE COURT: Thank you, understood.**

22                   MR. KERN: So, this is the defendant's motion to  
23 dismiss, Your Honor. I think this is a very simple case of  
24 does the South Carolina tort claims act apply. And if it  
25 does, which the defendant's contend then all of the tort

1 claims that have been alleged must be dismissed pursuant to  
2 that act. So, with that in mind, Your Honor, the facts of  
3 this are fairly basic. So the defendants have a mobile crisis  
4 unit that is dispatched to go and do evaluations of  
5 individuals' mental health. In this particular case, Mr.  
6 Ndunda's parents requested the dispatch of the mobile crisis  
7 unit to take an evaluation of Mr. Ndunda here. They did so.  
8 They went to his house. Interviewed him, interviewed his  
9 parents, interviewed his girlfriend, and then ultimately, made  
10 some difficult decisions that Mr. Ndunda was, for lack of a  
11 better word, a danger to himself or others. Which is the  
12 statutory required evaluation that they are supposed to do.  
13 Obviously, understand that that's an extremely delicate  
14 situation and a difficult decision to make. And of course,  
15 Mr. Ndunda disputes what's in the evaluation and disputes that  
16 he should have been involuntarily committed to the MUSC for  
17 further evaluation. And Your Honor, it's a 2-step process  
18 with involuntary commitments. The first process is that the  
19 mental health evaluators go and they interview the individual  
20 who is alleged to be having the crisis. If they determine  
21 that he is, you know, a danger to himself or others, which is  
22 the case in this case then they will get an Order from the  
23 Probate Court which requires the law enforcement to take the  
24 individual to the hospital. It's undisputed in this case that  
25 there was a Probate Court Order affecting that in this case,

1 and if the law enforcement did in fact, as alleged in the  
2 complaint, take Mr. Ndunda to MUSC for further evaluation. And  
3 then the hospital has their own separate evaluation that's  
4 separate and apart from the Department of Mental Health. I'll  
5 let Mr. Ndunda speak to that but that's sort of irrelevant to  
6 these defendant's part two of the evaluation at the hospital.  
7 So, Mr. Ndunda disputes you know the findings in his mental  
8 health evaluation as I'm sure most people who are  
9 involuntarily committed do. And based on his dispute there he  
10 brings 6 tort claims against the defendant's. False  
11 imprisonment, abusive process, defamation, intentional  
12 infliction of emotional distress, civil conspiracy, and  
13 invasion of privacy. Your Honor, I have separate grounds  
14 going tort by tort, but I think for purposes of this oral  
15 argument the focus should be on the tort claims act. If the  
16 court wants to hear you know the additional arguments as to  
17 the torts as may come up I'm happy to give them to the court.  
18 Otherwise, I'll sort of let my brief do the talking as far as  
19 the torts themselves.

20 **THE COURT: I understand. That's okay.**

21 MR. KERN: Okay. The tort claims act, I submit that  
22 this is probably one of the most classic cases that the tort  
23 claims act is designed to protect. It's designed to prohibit  
24 suing in tort governmental officials operating in the scope of  
25 their official duties. And I encourage the court to think

1 about this before I get into my argument about the public  
2 policy here. If government officials who are asked to do  
3 mental health evaluations can be sued in tort because the  
4 individual being evaluated disagrees with the findings, it  
5 (inaudible) the entire process of what these people are asked  
6 to do and the populations of individuals that they are  
7 supposed to protect. So, and I would submit that most  
8 individuals who are determined to be involuntarily committed  
9 dispute that they should have been involuntarily committed.  
10 They shouldn't be allowed to bring torts against the  
11 government officials who are carrying out the evaluations.  
12 So, as you know, Your Honor, the South Carolina tort claims  
13 act is a limited waiver of sovereign immunity. Meaning that  
14 sovereign immunity still applies under certain circumstances.  
15 And that's what we have here. So, there's two exceptions that  
16 apply under the tort claims act that retain sovereign  
17 immunity. One is the quasi-judicial immunity, and so, like I  
18 said, involuntary commitments are a two-step process, right.  
19 You got to evaluate the individual. Then, you get an Order  
20 from the Probate Court to commit them. So, this is part of a  
21 court process. And South Carolina quasi-judicial immunity  
22 applies when it's a court process. Anytime the government's  
23 action is considered an arm of the judiciary, that immunity  
24 applies, and you can't bring tort claims. And I've got  
25 several examples, Your Honor, that are directly (inaudible) in

1 this case you know. The Supreme Court in Fleming v. Asbill  
2 applied it to Guardian's ad Litem for the same reasoning here,  
3 right. That Guardian's have to be able to do and make their  
4 decisions in the best interest of the child without worrying  
5 about what disgruntled parents might think or say based on  
6 their decisions. So it applies to them. I've got Vaughn v.  
7 McCloud; it's applied to court-appointed medical examiners.  
8 It applies to Solicitors. It's applied to individuals arguing  
9 (inaudible) including the South Carolina Department of Mental  
10 Health, when they provided affidavits in the context of  
11 litigation. Which is similar to what happens here. They  
12 provide an affidavit to the Probate Court, and the Probate  
13 Court agrees, and then you commit the individual. So, quasi-  
14 judicial immunity clearly applies. That's all the court  
15 really even needs to analyze here. Because if that applies  
16 the whole case has to fail. But there's another immunity that  
17 applies in this case under the tort claims act. Which is  
18 called the discretionary immunity or the discretionary  
19 function immunity. And that's 1578-60 subsection 5. Now,  
20 discretionary immunity applies where the government weighs  
21 competing considerations and makes a conscious choice. And  
22 based on the 4 corners of the complaint that's exactly what  
23 happened. It's admitted that they went to -- they interviewed  
24 Mr. Ndunda, they interviewed his parents, they interviewed his  
25 girlfriend. He alleges that they assessed some other

1 collateral documentation. He doesn't say what that collateral  
2 documentation was. But they clearly reviewed, interviewed,  
3 assessed the demeanor of the individuals, and made the  
4 conscious choice that he needed to be further committed to  
5 MUSC for evaluation. That's just hallmark discretion. I  
6 think it's undisputed that it's discretion. And when  
7 discretion is undisputed in the complaint, this immunity can  
8 apply even at the 12B(6) phase, which is where we are here,  
9 Your Honor. And so those immunities applying prevent you from  
10 bringing any tort claims at all against the Department of  
11 Mental Health. So, for those reasons alone, the case should  
12 be dismissed. There is one other tort claims act issue in  
13 this case, Your Honor, and it has to do with the individual  
14 defendants. Ms. Pfeil and Ms. Magarty were the mental health  
15 clinicians who evaluated Mr. Ndunda in this case, and he  
16 alleges that they are personally liable to him for 6.5 million  
17 dollars, and that's also part of my motion to strike the  
18 punitive damages. But as you know, Your Honor, if the  
19 department's employees are working within the scope of their  
20 official duties, then they can not be individually liable for  
21 tort claims under the tort claims act. And so, it's  
22 undisputed here. They came to his house to do the evaluations  
23 they are required to do by their job and by statute. They did  
24 perform those obligations. Obviously, Mr. Ndunda disputes  
25 them and claims that they are false. And we have to assume

1 they are false for purposes of this dispute, but it can't be  
2 disputed that they were, in fact, working in their official  
3 capacity. So, they can't be found individually liable. So  
4 the immunities under the tort claims act therefore apply to  
5 the individual defendants because their government employees  
6 of the department. So, because the tort claims act applies  
7 you just can't bring any of the 6 torts he's brought. And I  
8 think the law is super clear on this. I have -- like I said I  
9 have additional arguments on each of the individual torts, but  
10 I will hold off on that until the court you know requests  
11 clarity on those issues.

12 **THE COURT: Sure. I understand. And did you Mr.**  
13 **Kern address those in your brief as well?**

14 **MR. KERN: Yes, sir I did. And I will rest on my**  
15 **brief on each of these issues if need be.**

16 **THE COURT: I think that's sufficient. Let me hear**  
17 **from Mr. Ndunda. Mr. Ndunda, I think you've been listening.**  
18 **You understand what Mr. Kern is saying. He's saying that the**  
19 **law in the State of South Carolina tort claims act which**  
20 **basically limits when someone can recover against the state or**  
21 **an entity of the state, a division of the state.**

22 **MR. NDUNDA: Absolutely.**

23 **THE COURT: Applies and prevents you from being able**  
24 **to go forward with you lawsuit. Anything you would like to**  
25 **say to address that?**

1 MR. NDUNDA: Yes, sir. Actually I have -- actually  
2 let me just start Your Honor by saying that I received their  
3 brief yesterday. So I wasn't able to file mine on time, but  
4 I'll file that as soon as possible. But I do have a counter  
5 for their arguments.

6 **THE COURT: Yes, sir. I'm glad to hear them.**

7 MR. NDUNDA: Thank you, Your Honor. Three points  
8 to refute their motion first. Defendant's cited Frazier  
9 versus Badger against me. The case actually proves my claim.  
10 Frazier found actual malice where a governmental employee  
11 acted for personal reasons. Retaliation rather than  
12 occupational reasons. The general job duties. Also, here  
13 crisis workers acted for a personal reason, retaliation for my  
14 litigation threat. Not a medical reason. Their own records  
15 prove it. They didn't actually cite their own records in  
16 their brief, which is interesting, right. They didn't attach  
17 it. So, in their medical records, according to them, right in  
18 their own records, which proves safety concerns they said  
19 none. (Inaudible) was N, I'm going to assume right  
20 (inaudible) not being delusional by saying N means none or no.  
21 And incarceration N, or also no. Under Frazier when  
22 government employees act contrary to their own occupational  
23 findings that's personal motivation. That's actual malice.  
24 This isn't covered under the tort acts. Their own case  
25 citation proves my claim. Second, they changed my words in

1 the actual report. She changed the words from sue to hurt.  
2 To manufacture a false homicidal designation. I said I want  
3 to sue the people involved in the cyber-attacks, which was  
4 actually later proven. There was actually a subpoena that was  
5 filed, and AT&T was not able to recover any records, which is  
6 technically impossible considering the fact that I was able to  
7 actually obtain records from my own router. So, it's  
8 impossible for me to have no records unless there is outside  
9 interference. But I can get into that later, that's another  
10 point of contention. However -- so personally motivation for  
11 retaliation is not occupational purpose for medical care.  
12 Family witnesses were present; they heard me say sue. They  
13 can testify under oath that they heard me say sue. Defendants  
14 concealed all of this evidence from you, Your Honor. They  
15 didn't attach the assessment showing what they actually said  
16 in the actual report because it would prove damaging to them.  
17 In addition, the crisis intervention sheets showing safety  
18 concerns, none. The service log showing emergency, no and  
19 incarceration, no because obviously it destroys their case.  
20 If the documents support them they would attach them. They  
21 concealed them because the documents prove actual malice.  
22 Your Honor, when a party moves for a dismissal but hides the  
23 primary evidence the court knows everything it needs to know.  
24 Let me address their specific arguments though. So, the  
25 immunity arguments, sovereign immunity. So, Your Honor,

1 immunity under South Carolina Code 15-78-70(C) does not extend  
2 to willful, wanton, or reckless conduct. Actual malice.  
3 Actions outside the scope of employment. All three of these  
4 exceptions apply. Actual malice prove it. They changed sue  
5 to hurt. Deliberate fabrication. Hospitalized despite safety  
6 concerns, saying none. Knowledge of falsity, immediately  
7 after litigation threat and proper motive. So under Frazier,  
8 their own cited case, personal motivation rather than  
9 occupational duty equals actual malice. Outside scope, the  
10 state employees crisis workers to conduct good faith  
11 assessments, not to retaliate or fabricate evidence, or also  
12 refuse investigation despite admitting no expertise. Despite  
13 me not claiming explicitly my 42 USC 1983 Federal Rights. I  
14 did -- the facts with the case allege them, which makes them  
15 valid. However, this still serves as conspiracy to deprive  
16 civil rights, fabrication of evidence, and First Amendment  
17 retaliation are not subject to state meaning, Hafer versus  
18 Melo, 502 US 21. In addition, the individual defendants --  
19 individual liability attaches when acting outside of scope of  
20 employment, that's checked retaliation commitment. Committing  
21 intentional torts. Fabrication false imprisonment, right  
22 checked. Remember they didn't include their own report in  
23 their brief. Violating constitutional rights, check, right.  
24 I might not have alleged them in the complaint. I'm pro se  
25 it's mt first time. Hopefully you guys can give me a little

1 bit of leeway on that and I'll be able to amend and file that  
2 later. However, though all -- these are all present.  
3 Immunity, doesn't apply. And so let me move now to specific  
4 tort claims. False imprisonment, defendant's cite Argo about  
5 erroneous orders. This isn't an error. This is fraud. Argo  
6 protects good faith mistakes. It does not protect orders  
7 procured by fraud. Fabrication they change sue to hurt.  
8 Their own records say safety concerns are none. Emergency,  
9 none. So they had the knowledge. They knew no basis existed.  
10 When an order is procured by fraud it's void. Argo doesn't  
11 protect that. Fraud vitiates everything it touches, right.  
12 So, now we can move on to abusive process. Defendant's argue  
13 I haven't shown process was misused for collateral purpose. I  
14 alleged this with specificity. Released with no diagnosis  
15 proves I wasn't there for treatment essentially. There was --  
16 well I can get into the details later. But -- so, I was  
17 released with no diagnosis, and I was seen by an RN. Who  
18 can't give a valid assessment. Collateral purpose,  
19 retaliation for threatening litigation, public humiliation,  
20 creating psychiatric records under my credibility, right.  
21 There's a timeline. Fabrication, sue is changed to hurt and  
22 their own contradictory documents prove misuse. So, there's  
23 defamation, right. Qualified privilege. The defendants  
24 claim qualified privilege protects their statements. But  
25 qualified privilege is defeated my actual malice. Which I

1 prove with specificity, right. A statement homicidal. Their  
2 own crisis intervention sheet says safety concerns, none.  
3 They documented none. Claimed homicidal anyways. Knowledge  
4 of falsity, statement emergency their own form is not an  
5 emergency. Emergency, N. They documented N, claimed  
6 emergency anyways. Knowledge of falsity, right. So the  
7 statement hurt, where did that come from. I said sue they  
8 wrote hurt. Family witness confirm, right, deliberate  
9 fabrication in the affidavits. And proper motive, timeline  
10 proves retaliation for litigation threat. Wreckless  
11 disregard, they refuse to investigate despite admitting no  
12 expertise. Your Honor, defendants accuse me of bald  
13 assertions but they are the ones making bald assertions. They  
14 claim privilege without proving good faith. They conceal  
15 assessment that would show actual malice. They don't address  
16 safety concerns, equaling none, right. They don't explain  
17 fabrication of hurt from sue. Their concealment proves  
18 privilege was abused through actual malice and there's actual  
19 intentional infliction of emotional distress, right. So the  
20 defendants argue conduct isn't extreme and outrageous. Your  
21 Honor, government officials fabricated psychiatric records to  
22 retaliate for litigation threat. They changed sue to hurt to  
23 manufacture false homicidal designation. They hospitalized  
24 despite own safety concerns saying none. Emergency, none.  
25 And admitted in their brief they dismissed my hate crime

1 report without investigation. So, they refused to investigate  
2 despite admitting know expertise. Used mental health system  
3 as a weapon against citizens exercising their first amendment  
4 rights. And the defendants cite the standard about  
5 reprehensible conduct versus wounded feelings, right. This is  
6 actual reprehensible conduct. Government retaliation,  
7 fabrication of official records, institutional gas lighting,  
8 weaponization of the mental health system, right. All these  
9 fits, Your Honor. And basically in their own words they even  
10 describe what they did. It's reprehensible, right. They want  
11 you to consider it to be reprehensible conduct. If the  
12 government -- if government officials can fabricate  
13 psychiatric assessments, retaliate for litigation threats,  
14 admit they dismissed evidence without investigation and it's  
15 not extreme and outrageous. Then the standard has no meaning.  
16 Now, let me move on to conspiracy. Your Honor, this is  
17 critical. Defendants (inaudible) intercorporate conspiracy  
18 (inaudible). Conspiracy requires parties form same entity.  
19 But their own memorandum destroys this defense. They admit,  
20 plaintiff alleges defendants disclosed sensitive mental health  
21 material to neighbors and uninvolved 3rd parties. Presumably  
22 the uninvolved 3<sup>rd</sup> parties include law enforcement, MUSC ER,  
23 and perhaps even the Probate Court. That's their admission.  
24 The conspiracy involved outside entities. Neighbors, outside  
25 entity. Law enforcement, outside entity. MUSC ER, outside

1 entity. They claim it's outside their purview. You can't  
2 have it both ways. It can't be outside your purview and them  
3 testing you for HIV and STD's, which is not standard protocol,  
4 and you can't hold them liable to that, but then also it be  
5 inside their purview when they deem it necessary to spread  
6 false information, right. And also they also did this with  
7 the Probate Court too, outside entity. So, intercorporate  
8 doctrine does not apply when conspiracy involves outside  
9 parties, which defendants admit it did in their own brief.  
10 Moreover, Your Honor, about the MUSC coordination. A 2am  
11 evaluation, the person is not identified in the actual  
12 records. The 10am evaluation, an RN at MUSC not defendants  
13 employee, actually did the assessment. However, an RN -- the  
14 RN left a diagnosis blank, no qualified person -- so no  
15 qualified person or professional actually diagnosed me. Like  
16 there was no diagnosis after all of this, right. They said I  
17 was a threat to society, a danger to myself and others, yet  
18 they didn't even leave a diagnosis, right. They just let me  
19 leave the next day. So, how do the two things work. And then  
20 at the same time, it's under your purview under intercorporate  
21 doctrine, but not when you actually -- when you are trying to  
22 protect yourself from the statement that are making, right.  
23 So, it's -- to me it's interesting that you are coordinating  
24 with outside hospital, use unqualified RN to rubber stamp a  
25 commitment, right. This really is a multi-entity conspiracy.

1 Their own admissions destroy their intercorporate defense.  
2 Now, I'll move on to invasion of privacy. So, publicity.  
3 Defendants argue insufficient publicity. But they admitted  
4 that I alleged defendants disclosed sensitive mental health  
5 material to neighbors. That's exactly what proves publicity,  
6 right. Neighbors are not law enforcement, right. Privilege  
7 medical professionals, privilege court officials, privilege.  
8 Neighbors are uninvolved 3<sup>rd</sup> parties. Disclosure to them  
9 equals publicity. Moreover, strategic parking for neighbor  
10 visibility spread throughout the community proven by a  
11 subpoena that I actually filed. Their admission they  
12 disclosed to neighbors proves publicity element. There is  
13 more to that that I could add but I can add that to the brief.  
14 But let me just move on to administrative ---

15 **THE COURT: Mr. Ndunda, let me just ask you**  
16 **something before I forget. How long do you want to be able to**  
17 **do a brief, how many days do you want?**

18 MR. NDUNDA: Can you give me just two days. I might  
19 even have it to you later today. But if you could just give  
20 me two days.

21 **THE COURT: Yeah, that's fine. You can -- I'll tell**  
22 **you what ---**

23 MR. KERN: Your Honor?

24 **THE COURT: Mr. Kern, yes sir. Mr. Kern, did you**  
25 **say something?**

1 MR. KERN: He filed a memorandum in opposition a  
2 while back. I mean he's more than welcome to file a brief at  
3 your discretion I don't mind that at all. I just wanted to  
4 say that.

5 **THE COURT: I'll give you until Monday to file**  
6 **something else. I'll give you until Monday to follow up with**  
7 **that. Okay, go ahead. I'm sorry. I just wanted to get that**  
8 **straight. Get that straightened before I forget to go back to**  
9 **it. Okay.**

10 MR. NDUNDA: No, thank you very much, Your Honor. I  
11 appreciate that, thank you. And thank you, Mr. Kern. So, let  
12 me just conclude with administrative exhaustion. So I met  
13 with the patient advocate and the psych manager on multi  
14 occasions. Each time, they defended the fabricated  
15 assessment. I spoke with them they told me that they agree  
16 with the assessment even though it was fabricated. I talked  
17 about the lies that were in the assessment. They said that  
18 overall, even if there was misconduct, they felt like they  
19 agreed with the assessment. So, if they are defending the  
20 fabricated assessment, and they also claimed that there was a  
21 protocol that they are supposed to park far away from the  
22 persons house in case they run. How does that make sense if  
23 I'm in shape and I'm really crazy I'm a danger to society,  
24 right. Why wouldn't I just run out of the house and leave.  
25 You're parked all the way down the street, right. So then

1 they are claiming that they have a protocol. Come to find out  
2 after multiple phone calls to different -- se we had to call  
3 the South Carolina Department of Mental Health in Columbia and  
4 other places just to get an answer. Finally, they admitted to  
5 us that there is no protocol. So, they were lying to us the  
6 whole time. So, it's not providing a remedy. Like, there is  
7 no remedy to be provided when you are going to tell me that  
8 you want me to exhaust remedies with you when you lie all the  
9 way through it. There's like, what's the point. So, you are  
10 telling me that I should go through a process where you want  
11 me to review the lies but you have already told me that you  
12 agree with the lies, and I have to find out through your  
13 sister cooperation or entity that you don't actually have a  
14 protocol that you are trying to defend your conduct with the  
15 whole time, right. So, and also another thing that's  
16 interesting is that since they shared this with neighbors that  
17 I was a danger to myself and others, but when my parents asked  
18 to see the report, they refused to show them the report. Now  
19 it all makes sense, right. Given the fact that because they  
20 would have as they did in the affidavits that we attached,  
21 right they would have vehemently refuted all the claims that  
22 were made. They claimed I was suicidal, homicidal. I mean,  
23 she answered all the questions yes on the suicide scale. They  
24 lied in front of two witnesses and the police officer.  
25 Interesting thing is too is that they didn't even try to get

1 the body camera from the police officer. Which kind of gives  
2 you -- it's another layer of just like their deception. It's  
3 why are you hiding so much. You don't bring a report, you  
4 don't try to get evidence from the police officer to verify  
5 the credibility of their stories and so all you try to do is -  
6 - is use legal terminology to try to make - well let me not  
7 get there. The thing is is that for me I just feel like they  
8 avoided the actual issue, right. Which was their own report  
9 refutes their claims. But let me just get to like what I had  
10 written down so I can save everybody the time. So, to get  
11 back to what I was saying was they liked about a protocol that  
12 doesn't exist, right. They didn't provide a remedy that was  
13 worth pursuing. It would have been futile, right. The  
14 administrators defended their misconduct, so further pursuit  
15 with them is futile. Moreover, since -- you know since my  
16 claims even though I didn't specifically cite you know Federal  
17 1983 claims. They don't require that I actually exhaust  
18 (inaudible) remedies. Patsy versus The Board of Regence,  
19 right. 457 US 496. Even if Federal -- sorry. Yeah, they  
20 don't -- yeah it doesn't require exhaustion of state  
21 administrative remedies, alright. So, and again even if the  
22 Federal 1983 laws weren't explicitly cited, right the facts  
23 allege support Federal civil rights claims. You know  
24 government official acting under color law fabricated  
25 evidence, retaliated for first amendment protected activity.

1 Deprive liberty without due process and also they say that  
2 their claims aren't subject to state immunity, right. So,  
3 sorry, Federal claims aren't subject to state immunity. And  
4 to kind of just break this all down, like what I kind of just  
5 want to say is that Your Honor, the defendants memorandum  
6 makes several damaging issues. Number one, they dismissed my  
7 hate crime report. The whole reason they came to the house,  
8 my mom was upset because I received some cyber hate crime.  
9 The first question I asked them was, do you understand cyber  
10 security or have any knowledge of it. They said, no. From  
11 there on -- so how do you admit that you don't understand  
12 something and then conclude that my statements are delusional.  
13 That doesn't make sense. If you don't understand the concept  
14 that I'm trying to offer you evidence. Again, like I said the  
15 AT&T router log supports that obviously there was interference  
16 there, there was no way I can have 492 devices on my internet  
17 and AT&T has no logs. Otherwise people would just be  
18 committing murders all day, right. They would be googling how  
19 to kill people and AT&T wouldn't know who is looking at what,  
20 right. So how do my logs end up being clear and at the same  
21 time I'm making delusional statements, right. They didn't  
22 want to look at actual evidence to the claims I was making.  
23 They just wanted to make an assessment. Sorry, let me get  
24 back to like ---

25 **THE COURT: And Mr. Ndunda, I don't want to hurt you**

1 **too much but I'm running out of time that we got allotted.**  
2 **Actually past the time. But I am listening to you. Go ahead.**

3 MR. NDUNDA: Sorry about that. Sir, I appreciate  
4 that very much, Your Honor. So, to try to wrap this up. I  
5 reported hate crime content. I asked if they had expertise.  
6 They said, no. I requested an investigation. They refused.  
7 They dismissed it. They admitted they had dismissed it in  
8 their own brief. I asked -- sorry, then they called me  
9 delusional. So, this is actual malice. Wreckless disregard  
10 for the truth. Refusing to investigate. Then, labeling  
11 client, sorry, then labeling claims false anyways. This is  
12 also institutional gaslighting. Patient tells truth,  
13 professionals refuse to verify. Label patient for truth, they  
14 won't investigate. Use label to deprive liberty. Then claim  
15 they had no duty to investigate. Your Honor, someone  
16 experiencing general delusions doesn't ask if evaluators have  
17 relevant expertise; I did. They admitted they didn't. I  
18 requested an investigation. They refused. Then, they called  
19 me delusional for claims they admitted they didn't  
20 investigate. Admission number two, conduct is reprehensible.  
21 In their own brief, they alluded to it. They cite the  
22 standard about reprehensible conduct versus wounded feelings.  
23 They're describing what they did, reprehensible. Then, they  
24 say it's not bad enough for IEED, right. Your Honor, if this  
25 isn't extreme and outrageous, what is? They acknowledge I

1 reported to the FBI in their own report. Then they say it's -  
2 - sorry. Yeah, they acknowledge I report to the FBI. Their  
3 memorandum states that I called (inaudible) before and that  
4 I've called law enforcement before and the FBI with my  
5 concerns. Which proves you know I did report to authorities,  
6 not delusional. I actually didn't seek out their help. My  
7 mom sought out their help under guidance from somebody under  
8 you know, under pretenses, assuming that they were there to  
9 actually commit a valid assessment, right. Their employees  
10 doing their jobs. However, I did seek appropriate help. The  
11 FOIA report that I do have confirms this, right. So my record  
12 is clean, so how do I get this designation of being a danger  
13 to myself and others, right. My FOIA report came back clean  
14 from the FBI and also police department. So, which is very  
15 weird. So you can't -- but let me get on to. They disqual --  
16 the next admission is that they disclosed to multiple entities  
17 outside, right. Neighbors, law enforcement, MUSC ER, Probate  
18 Court, all outside entities. But I know you are running out  
19 of time. How much time do I have?

20 **THE COURT: Mr. Ndunda, I think you've covered that**  
21 **about outside folks. I understood what you are saying. I**  
22 **mean, you make a good lawyer.**

23 MR. NDUNDA: I appreciate that, thank you.

24 **THE COURT: You might not have a bar certificate,**  
25 **but you make a good lawyer.**

1 MR. NDUNDA: Thank you. I appreciate that.

2 **THE COURT: No, you are ---**

3 MR. KERN: Your Honor, I would like to be heard if I  
4 could at the end today.

5 **THE COURT: Mr. Kern, I'll give you a brief**  
6 **opportunity to respond. Very briefly.**

7 MR. KERN: Thank you, Your Honor. Just real quick.  
8 I think there's a just a miss, you know, over no fault of Mr.  
9 Ndunda's own you know. He's not an attorney, so he doesn't  
10 know how the legal process works, obviously. This is a 12(B)6  
11 motion. So we can't cite any outside authority. You know our  
12 own records obviously have plenty of information about what  
13 was done in the assessment. Of course, that's not in the  
14 purview of the court at this time. So you know that number  
15 one. Number two, is yeah, I can totally appreciate that Mr.  
16 Ndunda disputes what was in the findings of his mental health  
17 evaluation. But I think there's a misunderstanding here. The  
18 South Carolina Behavioral of Health and Developmental  
19 Disabilities employees do mental health assessments. They  
20 don't investigate crimes, they don't investigate hate crimes,  
21 they weren't there to investigate a hate crime. There's no  
22 duty to investigate a hate crime. I don't know what the hate  
23 crime was, you know that's separate. Law enforcement can  
24 handle that if that's the issue. So, their -- the statutory  
25 of duties are to make an assessment of the plaintiff. That

1 gets approved by the Probate Court, which is was in this case,  
2 and they're taken to the hospital. The hospital what they do  
3 is totally separate. They take -- they do an investigation, I  
4 don't know what they did. The Department of Mental Health has  
5 nothing to do with what MUSC does. So I don't know what  
6 happened to Mr. Ndunda at MUSC, but that's outside of the  
7 court's purview as it relates to these torts. Obviously,  
8 there is a reason why none of these claims are ever brought  
9 against these defendants, because you can't bring these torts  
10 against the state. He does make an argument about malice,  
11 actual malice. This is the first I've ever heard that there  
12 was a retaliatory element based on a threat of litigation.  
13 Obviously, I don't know if that was made up in the last couple  
14 of days. That's not in the complaint. He says you didn't  
15 investigate my hate crime, and you retaliated against me by  
16 making false allegations. Of course, there is no duty to  
17 investigate a hate crime by the Department of Mental Health.  
18 And the Frazier versus Bolger does a good job of describing  
19 the facts that are necessary to be pled to show that someone  
20 was acting outside of the scope of their official duties.  
21 So, in that case, the individual was retaliating against --  
22 the government official was retaliating against the plaintiff  
23 because the plaintiff had rejected or spurned at the sexual  
24 advances of the governmental official. Which was a personal  
25 and not occupational reasons. So, that's why the case was

1 cited. Because it shows you can't just say oh they have bad  
2 intent. Oh, they fabricated lies. Oh, they did this, they  
3 did that. Of course, everybody who disagrees with their  
4 assessment is going to say that. And they are going to claim  
5 that something was mal intent. But there has to be actual  
6 facts pled that show that there was some personal reason,  
7 right to inform the mal intent behind the act. So, he hasn't  
8 pled that. He can't plead that, right. So, I don't want to  
9 go through tort by tort. I mean, my brief can speak for  
10 itself. Obviously, there is a court order in this that  
11 committed him to MUSC. That disposes of multiple claims.  
12 There's a privilege that applies between just this process in  
13 general, right. I mean these people have to be in power to do  
14 their jobs. They have to be able to contact law enforcement.  
15 They have to be able to contact the Probate Court. It's all  
16 in the statute. I've cited the statute that applies. On 1983  
17 he hasn't brought 1983. He wants to bring 1983 and the court  
18 is willing to allow him to amend then he'll have to do that  
19 separately. The only claims that are in this case are the  
20 torts. The torts don't survive scrutiny under the tort claims  
21 act. It's plain as day. And we'll rest on our brief on the  
22 rest of the subsequent grounds. I don't want to get into the  
23 weeds you know about what my memo does and doesn't say. But I  
24 don't want to waste the courts time.

25 **THE COURT: Ya'll have done a good job of stating**

1 your positions. And I think I understand what you've said  
2 because you've both been clear. Now, the brief that has been  
3 filed by you Mr. Kern, I'm going to look at it. I only  
4 started and got to read the first part of it. I got to finish  
5 it. Mr. Ndunda I think has already filed something but I'm  
6 going to give him until Monday to file additional documents.  
7 So, I will not make a decision on this until I read  
8 everything, had an opportunity to review it all. So, it will  
9 probably be sometime next week probably I'll let y'all know  
10 something. Mr. Ndunda, do you have an email that you use so  
11 that I could communicate with you through an email?

12 MR. NDUNDA: Yes, sir. Yes, sir.

13 THE COURT: I want to get that. Make sure I read it  
14 back to you and get it right. Okay.

15 MR. NDUNDA: It's [Geospatial02@outlook.com](mailto:Geospatial02@outlook.com). So  
16 geospatial.

17 THE COURT: Alright. I want to read it back to you.  
18 I think I got you but just to be sure.

19 [Geospatial02@outlook.com](mailto:Geospatial02@outlook.com)?

20 MR. NDUNDA: Yes, Your Honor.

21 THE COURT: Got it. Good. I rather communicate  
22 with you that way than the mail because the mail just takes to  
23 long. I'll email and when I send something out with a  
24 decision it will go to everyone at the same time by the same  
25 email.

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MR. NDUNDA: Thank you.

**THE COURT: Thank you, Mr. Ndunda. Thank you all.**

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CERTIFICATE OF TRANSCRIBER

I, **SANDRA ALLEN**, a court-approved transcriber, do hereby certify that the foregoing is a true, accurate, and complete Transcript of Record of the proceedings had and evidenced introduced in the trial of the captioned case, relative to appeal, in the **Circuit Court, Charleston County, South Carolina, on the 9th day of October, 2025.**

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

April 26, 2026

*Sandra Allen*

Sandra Allen, Transcriber