

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE)

Tonia Klugh,) C.A. No. 2023-CP-23-05709
)

Plaintiff,)
) **ORDER GRANTING MOTION FOR**
) **SUMMARY JUDGMENT IN PART AND**
v.) **DENYING MOTION FOR SUMMARY**
) **JUDGMENT IN PART**

Greenville County and the Greenville)
County Sheriff's Office,)

Defendants.)
)

RECEIVED
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SC Court of Appeals

This matter came before the Court on motion for summary judgment of Defendant Greenville County and the Greenville County Sheriff's Office (GCSO). This Court conducted a hearing on February 5, 2026. Joshua T. Hawkins and Sulaiman Ahmad appeared for Plaintiff. Stephanie H. Burton appeared for Defendants. The Court permitted both parties to submit materials to the Court following the hearing. For the reasons described below, the Court grants the motion in part and denies the motion in part.

FACTUAL BACKGROUND

This matter arises from an incident that occurred on May 31, 2023. On that date, Tryniti Derricks, the mother of a child with Gioann Klugh, arrived at the home of Plaintiff, where Gioann Klugh resided. It appears that Derricks was upset because a case worker from the South Carolina Department of Social Services had visited her that day to commence an investigation of a report of abuse of neglect of their child. Some of the interaction between Plaintiff, Derricks and Gioann Klugh was captured by a Ring doorbell camera at Plaintiff's home.

At 2:34 p.m., Plaintiff called 911 and reported that Derricks had come to her home and assaulted her and her son. GCSO Deputy Logan Edgar was dispatched to Plaintiff's home at 21

Kirkshire Lane in Simpsonville, South Carolina. His interaction with Plaintiff and her son at the home was recorded by his body worn camera, the footage of which was submitted to the Court.

Deputy Edgar interviewed Plaintiff and Giaonn Klugh. During the interview, they described an altercation involving Derricks. During the interview, Plaintiff showed Deputy Edgar a portion of Plaintiff's doorbell camera footage. Plaintiff admitted pushing Derricks during the interview. Plaintiff indicated that Derricks had pulled one of her braids from her head and Giaonn Klugh showed Deputy Edgar various scratches and wounds. Both indicated that they wanted to press charges against Derricks. Deputy Edgar provided them with victim paperwork as both alleged that they were the victims of an assault. While Deputy Edgar was at Plaintiff's house, he received a call that Tryniti Derricks had also called 911. He advised Plaintiff that he was going to interview Derricks.

After leaving Plaintiff's home, Deputy Edgar went to 403 Garrett Street, Fountain Inn, South Carolina where he met Officer Luke Mavar of the Fountain Inn Police Department, who had been dispatched in response to Derrick's 911 call for service. As recorded on both officers' body-worn cameras, Officer Mavar advised Deputy Edgar that Derricks had sustained injuries. Deputy Edgar also interviewed Tryniti Derricks who indicated that both Plaintiff and Giaonn Klugh had assaulted her and caused her injuries. She admitted hitting them. She also indicated that she wanted to press charges against both Giaonn Klugh and Plaintiff.

As requested by Deputy Edgar, Plaintiff sent the doorbell camera footage to the GCSO. He presented information from his investigation to Magistrate Seldon Peden, who issued arrest warrants for all three individuals. Judge Peden issued an arrest warrant for Plaintiff for the crime of assault and battery third degree.

The following day, Thursday, June 1, 2023 at approximately 11:40 a.m., deputies from the GCSO arrived at Plaintiff's home to serve Plaintiff and Giaonn Klugh with the arrest warrants. Plaintiff was transported by Deputy Matthew Ruzika to the Greenville County Detention Center where he committed her to the custody of the jail.

Plaintiff arrived at the Detention Center at 12:22 p.m. Deputy Ruzika transferred custody of Plaintiff to the Detention Center. Officer Kela Stubbs was on duty as the search officer. She conducted a pat down search of Plaintiff and discovered that she was wearing an insulin pump. Officer Stubbs took Plaintiff to see medical staff member Chad Horton to discuss the pump. Horton advised Plaintiff that she could not maintain the pump in the jail and that medical staff would monitor her glucose levels four times a day and provide her with insulin. Plaintiff removed her pump which was placed with the inventory of her possessions.

Plaintiff was booked into the Detention Center at 3:55 p.m. Plaintiff was again seen by Chad Horton at approximately 4:22 p.m., who obtained her medical history and performed testing. A blood glucose reading indicated that Plaintiff's blood glucose was 414 mg/dL. In addition, ketones were detected in her urine. Horton administered 6 units of insulin.

Plaintiff's blood glucose was again checked by GCDC medical staff. Licensed Practical Nurse Stacy Nagle checked Plaintiff's blood glucose, which had risen to 505 mg/dL. Nurse Nagle administered 7 units of insulin. Following Plaintiff's appearance at bond court, at 1:07 a.m. on June 2, 2023, Nurse Nagle again checked Plaintiff's blood glucose level which had risen to 515 mg/dL. Nurse Nagle determined that Plaintiff should be transported to Greenville Memorial Hospital where she was admitted on June 2, 2023. Plaintiff was discharged from the hospital on Sunday, June 4, 2023. Plaintiff returned to work on Monday, June 5, 2023.

On July 26, 2023, Plaintiff appeared for a hearing on the pending criminal charge. The victim of her crime, Tryniti Derricks, did not appear. The court dismissed the charge against her.

ARGUMENT

Motion for Summary Judgment of Greenville County Sheriff's Office

In her November 1, 2023 Complaint, Plaintiff asserts two causes of action both sounding in negligence against the GCSO: (1) Negligence in obtaining a warrant for her arrest; and (2) negligence in hiring and supervising the officer involved in the investigation, Deputy Logan Edgar.

Plaintiff's Negligence/Gross Negligence Claim

An essential element of a cause of action for negligence is the existence of a legal duty of care owed by GCSO to Plaintiff. Without a legal duty, there is no actionable negligence. Bishop v. South Carolina Dept. of Mental Health, 331 S.C. 79, 502 S.E.2d 78 (1998). The question of whether the GCSO owed a legal duty to Plaintiff is a question of law for this Court. “A motion for summary judgment on the basis of the absence of a duty is a question of law for the court to determine.” Oblachinski v. Reynolds, 391 S.C. 557, 560, 706 S.E.2d 844, 845 (2011) (upholding trial court's grant of summary judgment finding that the defendant did not owe a duty of care). In an action for negligence, the Court must determine whether the defendant owed a duty of care to the plaintiff and if there is no duty, the defendant is entitled to judgment as a matter of law. Huggins v. Citibank, N.A., 355 S.C. 329, 332, 585 S.E.2d 275, 276-77 (2003).

In her Complaint, Plaintiff alleges that that the GCSO was negligent in investigating the incident involving Plaintiff, her son and Tryniti Derricks and by charging her with third degree assault and battery. (See Compl. ¶ 33.) In her memorandum, Plaintiff indicates that she does not claim that Deputy Edgar negligently investigated the incident, but rather that Deputy Edgar negligently obtained an arrest warrant. (Pltf. Memo. p. 5.) Regardless, South Carolina does not recognize a legal claim for negligent investigation or negligent arrest.

In Wyatt v. Fowler, 326 S.C. 97, 484 S.E.2d 590 (1997), deputies entered the wrong house in executing an arrest warrant. The South Carolina Supreme Court held that the trial court should not have submitted the negligence claim to the jury. Relying upon opinions from Michigan and Idaho, the Court held that the police did not owe a duty to the individual plaintiff. The Court also specifically stated that “the state does not owe its citizens a duty of care to proceed without error when it brings legal action against them. Id. at 101, 484 S.E.2d at 592. Thus, the Court held that the Sheriff did not owe any legal duty to the plaintiff in that case.

Similarly, in Seabrook v. Town of Mount Pleasant, 432 S.C. 4412, 853 S.E.2d 508 (Ct. App. 2020), the South Carolina Court of Appeals reaffirmed that there is no viable claim for negligent arrest in South Carolina. Seabrook was arrested for and indicted for homicide by child abuse. The solicitor dismissed the charge after the medical examiner opined the death could have resulted from a minor blow. Seabrook asserted claims for false arrest (not asserted by Plaintiff in this case), gross negligence, and malicious prosecution. In addressing the false arrest claim, the court noted that a plaintiff arrested pursuant to a facially valid warrant cannot assert a claim for false arrest. The Court of Appeals affirmed the grant of summary judgment on the negligence claim stating: “There is also no viable claim for negligence or gross negligence. Seabrook contends the officers negligently arrested him without probable cause. This is indistinguishable from his malicious prosecution claim.” Id. at 444. 853 S.E.2d at 510.

These decisions are logical. Law enforcement cannot negligently investigate a crime or arrest someone. A deputy cannot negligently have probable cause. A claim that an officer did not have probable cause for an arrest does not sound in negligence, but is rather a claim for false arrest or malicious prosecution.

South Carolina case law is clear. South Carolina does not recognize a claim for negligent investigation or arrest. Accordingly, the Court grants the motion for summary judgment of GCSO for Plaintiff's negligence claims.

Negligent Hiring and Supervision Against GCSO

The Court finds that there is a genuine issue of material fact as to whether the GCSO negligently hired or supervised Deputy Edgar and thus denies Defendant's motion with respect to that claim.

Plaintiff's Malicious Prosecution Claim

In her Complaint, Plaintiff asserts a cause of action for malicious prosecution against Greenville County. In her memorandum, Plaintiff states that her Complaint includes a typographical error and that she intended to assert such claim against GCSO. The Court finds that Plaintiff cannot pursue such a claim against either Defendant in this case.

To prove such a claim, Plaintiff must offer evidence of all of the following elements:

1. The institution or continuation of original judicial proceedings;
2. By or at the instance of the Defendant;
3. Termination of such proceedings in Plaintiff's favor;
4. Malice in instituting such proceedings;
5. Lack of probable cause; and
6. Resulting in injury or damage.

Law v. South Carolina Dep't of Corr., 368 S.C. 424, 435, 629 S.E.2d 642, 648 (2006).

Greenville County did not institute criminal proceedings against Plaintiff and is entitled to summary judgment for such claim. In addition, the Court finds that that the assault and battery charge against Plaintiff was not dismissed in a manner consistent with a finding of innocence as

required by South Carolina law. As the South Carolina Supreme Court stated in McKenney v. Jack Eckerd Co., 304 S.C. 21, 402 S.E.2d 887 (1991), “ Accordingly, we hold that, where an accused establishes that charges were *nolle prossed* for reasons which imply or are consistent with innocence, an action or malicious prosecution may be maintained.” Id. at 22, 304 S.E.2d 888.

South Carolina’s courts have repeatedly held that the dismissal of charges must be on substantive, not procedural grounds. See Gecy v. Somerset Point at Lady’s Island Homeowners Assoc., Inc., 426 S.C. 540, 553, 828 S.E.2d 29 73, 80 (Ct. App. 2019). In considering a state law malicious prosecution claim, the United States Court of Appeals for the Fourth Circuit has even noted that “dismissal due to a witness or victim unavailability does not indicate a defendant’s innocence.” Salley v. Myers, 971 F.3d 308 (4th. Cir. 2020).

The evidence in the record before the Court shows that the charge against Plaintiff was dismissed for procedural reasons. The warrant states that the disposition of the charge was “Judicial Dismissal” - “Victim No Show.” Plaintiff testified in her deposition:

Q: Do you know anything about the victim not showing up for something leading to a dismissal?

A: I remember going to court ---

Q: Okay.

A: --- and I remember, yes, her never showing up.

(Plaintiff’s Dep. p. 48, l. 7-11)

Q. Okay. And you remember at the court proceeding that Tryniti, who I assume is the victim referred to, Tryniti was a no-show?

A: Correct.

Q: And as a result the judge dismissed the charges?

A: Correct.

(Plaintiff's Dep. p. 50, l. 1-7.)

Q: Okay. And you never saw Tryniti come, and you don't know why it was put on your arrest warrant judicial dismissal, victim no show?

A: Well, I guess she didn't show up.

(Plaintiff's Dep. p. 114, l. 14-17.)

Plaintiff has not offered evidence that the assault and battery charge was dismissed in a manner that was consistent with her innocence. Accordingly, the Court finds that Defendants are entitled to summary judgment for Plaintiff's third cause of action for malicious prosecution.

Gross Negligence Claim Against Greenville County

Plaintiff asserts a gross negligence claim against Greenville County. The crux of Plaintiff's allegations appear to be that staff at the Greenville County Detention Center required Plaintiff to remove her insulin pump which caused her to become hyperglycemic. Plaintiff contends that medical staff did not properly treat her hyperglycemia and that she should have been sent to the hospital earlier in the evening. The Court finds that there are genuine issues of material fact regarding whether Greenville County Detention Center staff was grossly negligent and whether Greenville County proximately caused an injury or damages to Plaintiff. Thus, the Court denies Defendant Greenville County's motion.

Negligent Hiring and Supervision Claim against Greenville County

The Court finds that there is a genuine issue of material fact as to whether Greenville County negligently hired or supervised its staff and thus denies Defendant's motion with respect to that claim.

Punitive Damages and Attorney's Fees

The South Carolina Tort Claims Act applies to Plaintiff's claims in this case. Punitive damages are not recoverable under the Act. S.C. Code Ann. §15-78-120(b). Attorney's fees are

not recoverable under the Act nor for any of the tort claims asserted by Plaintiff in this case. Accordingly, the Court grants Defendant's' motions with respect to punitive damages and attorney's fees.

CONCLUSION

In summary, the Court grants Defendants' motion in part as follows:

1. Plaintiff's claim for negligence against the Greenville County Sheriff's Office;
2. Plaintiff's claim for malicious prosecution;
3. Plaintiff's claim for punitive damages;
4. Plaintiff's claim for attorney's fees.

The Court denies Defendants' motion in part and the following causes of action remain in this case:

1. Plaintiff's claim for gross negligence against Greenville County;
2. Plaintiff's claim for negligent supervision and hiring against Greenville County; and
3. Plaintiff's claim for negligent hiring and supervision against the Greenville County Sheriff's Office.

AND IT IS SO ORDERED.

Jessica A. Salvini, Judge
Court of Common Pleas



Greenville Common Pleas

Case Caption: Tonia Klugh vs. Greenville County , defendant, et al

Case Number: 2023CP2305709

Type: Order/Summary Judgment

So Ordered

Jessica A. Salvini