THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM SUMTER COUNTY

Court of Common Pleas

R. Kirk Griffin, Circuit Court Judge

Case No. 2023-CP-43-01088

Appellate Case No. 2026-000212

Claude Helton,

Appellant,

v.

Sumter County Sheriff's Department,

Respondent.

INITIAL BRIEF OF RESPONDENT

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STATEMENT OF THE CASE

Appellant, Claude Helton (hereinafter "Mr. Helton"), was involved in a motor vehicle accident on June 30, 2021. *See* Pl.'s Compl. The other vehicle involved in the accident was driven by an employee of Respondent, Sumter County Sheriff's Department (hereinafter "Sheriff's Department"). *See* Pl.'s Compl. Mr. Helton filed his Complaint in the present matter on July 11, 2023. *See* Pl.'s Compl. In his initial Complaint, Mr. Helton named Earl Fulwood, Jr. and Anthony Dennis, Sheriff, as defendants. *Id*. Mr. Helton then filed an Amended Complaint on August 17, 2023, based upon the same allegations but, appropriately, naming Sumter County Sheriff's Department as the sole defendant. *See* Pl.'s Am. Compl. The Sheriff's Department filed a Notice of Motion and Motion to Dismiss on April 8, 2025, pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure. *See* Mot. to Dismiss.

On September 22, 2025, the Honorable R. Kirk Griffin heard the Sheriff's Department's Motion to Dismiss. *See* Tr. of 9/22/25 Hr'g. On October 14, 2025, Judge Griffin issued a Memorandum granting the Sheriff's Department's Motion to Dismiss "[a]fter review of the issue under advisement, the arguments of counsel, the pleadings, and all memoranda submitted[.]". *See* Memorandum. The Memorandum further clarified that the Court was granting the Motion for violation of the applicable Statute of Limitations and in accordance with *Tanyel v. Osborne*, 312

S.C. 473 (1994). *Id*. Judge Griffin signed and filed an Order on October 28, 2025, holding Mr. Helton "failed to file his Complaint[1] within the applicable statute of limitations pursuant to S.C. Code Ann. § 15-78-110." 10/28/25 Order at pp. 2-3.

STANDARD OF REVIEW

"In reviewing the dismissal of an action pursuant to Rule 12(b)(6), SCRCP, the appellate court applies the same standard of review as the trial court." *Rice-Marko v. Wachovia Corp.*, 398 S.C. 301, 307, 728 S.E.2d 61, 64 (Ct. App. 2012)(quoting *Cricket Cove Ventures, LLC v. Gilland,* 390 S.C. 312, 321, 701 S.E.2d 39, 44 (Ct.App.2010)).

Under Rule 12(b)(6), SCRCP, a defendant may make a motion to dismiss based on a failure to state facts sufficient to constitute a cause of action." *Baird v. Charleston Cty.*, 333 S.C. 519, 527, 511 S.E.2d 69, 73 (1999). A court's "ruling on a 12(b)(6) motion must be based solely upon the allegations set forth on the face of the complaint." *Stiles v. Onorato*, 318 S.C. 297, 300, 457 S.E.2d 601, 602 (1995). Indeed, "[i]t is a well-settled principle that[,] in resolving a Rule 12(b)(6) motion to dismiss, the court is limited to a consideration of the allegations contained within the four corners of the complaint." *Charleston Cty. Sch. Dist. v. Harrell*, 393 S.C. 552, 559, 713 S.E.2d 604, 608 (2011). "Viewing the evidence in favor of the plaintiff, the motion must be granted if facts alleged in the complaint and inferences reasonably deducible therefrom do not entitle the plaintiff to relief on any theory of the case." *Brown v. Theos*, 338 S.C. 305, 309–10, 526 S.E.2d 232, 235 (Ct. App. 1999) (quoting *Jarrell v. Petoseed Co., Inc.*, 331 S.C. 207, 209, 500 S.E.2d 793, 794 (Ct. App. 1998)).

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[1] As the circuit court recognized, given that both the Complaint and Amended Complaint were filed after expiration of the statute of limitations, there is no need to address any distinction between the two filings.

ARGUMENT

The Circuit Court applied the correct standard of review in granting the Sheriff's Department's Motion to Dismiss. Applying the same standard of review, this Court should affirm the Circuit Court's holding and order because Mr. Helton failed to file his Complaint within the applicable statute of limitations.

I. THE CIRCUIT COURT APPLIED THE PROPER STANDARD OF REVIEW WHEN GRANTING RESPONDENT'S MOTION.

On appeal, Mr. Helton asserts that the circuit court did not apply the correct standard of review when it granted the Sheriff's Department's Motion to Dismiss. However, Mr. Helton has not articulated how or why the circuit court applied an incorrect standard of review. *See* Appellant's Brief at pp. 4. Further, aside from basic recitations, Mr. Helton does not articulate any substantive argument, nor does he cite any legal authority for his first asserted issue on appeal. Therefore, Mr. Helton has apparently abandoned his appeal of this unsupported issue. *See First Sav. Bank v. McLean,* 314 S.C. 361, 363, 444 S.E.2d 513, 514 (1994) (issue deemed abandoned where appellant failed to provide arguments or supporting authority for his assertion); *Eaddy v. Smurfit–Stone Container Corp.,* 355 S.C. 154, 164, 584 S.E.2d 390, 396 (Ct.App.2003) ("[S]hort, conclusory statements made without supporting authority are deemed abandoned on appeal and therefore not preserved for our review.").

However, should this Court consider the issue, the standard of review applied by the circuit court is the same standard to be applied by this Court. *See Rice-Marko*, 398 S.C. at 307, 728 S.E.2d at 64. A court's "ruling on a 12(b)(6) motion must be based solely upon the allegations set forth on the face of the complaint." *Stiles*, 318 S.C. at 300, 457 S.E.2d at 602. And "the motion must be granted if facts alleged in the complaint and inferences reasonably deducible therefrom do not entitle the plaintiff to relief on any theory of the case." *Brown*, 338 S.C. at 309–10, 526 S.E.2d at 235.

In its Order, the circuit court relied solely upon allegations in Mr. Helton's Amended Complaint to support its holding that Mr. Helton case should be dismissed for violation of the applicable statute of limitations. *See* 10/28/25 Order. Specifically, the Court relied upon the fact that the motor vehicle accident at issue occurred on June 20, 2021, but Mr. Helton did not file his initial Complaint until July 11, 2023. *Compare id*. at pp. 2-3 and Pl.'s Compl. ¶ 3.

Aside from his conclusory assertion that the circuit court applied the improper standard of review, Mr. Helton has not identified anything that the circuit court considered that was outside of the four corners of his Complaint or Amended Complaint. *See* Appellant's Brief at pp. 4. Instead, Mr. Helton asserts only that there are questions of fact regarding application of immunities potentially available to the Sheriff's Department pursuant to the South Carolina Tort Claims Act. *See id*. While the Sheriff's Department did assert various affirmative defenses available under the Tort Claims Act, *see* Answer, none of these affirmative defenses formed the basis for the circuit court's appropriate holding that "plaintiff failed to file his Complaint within the applicable statute of limitations." 10/28/25 Order.

Accordingly, Mr. Helton has not provided any arguments or supporting authority for his assertion that the circuit court applied an incorrect standard of review. If this Court determines that the issue has not been abandoned, such issue is moot given that this Court applies the same standard of review as the circuit court, and the circuit court relied solely on allegations in Mr. Helton's Complaint to support its ruling as discussed further below.

II. THE CIRCUIT COURT CORRECTLY APPLIED THE DISCOVERY RULE AND HELD THAT APPELANT DID NOT FILE HIS COMPLAINT WITHIN THE APPLICABLE STATUTE OF LIMIATIONS.

The South Carolina Tort Claims Act is the "exclusive remedy for any tort committed by a governmental entity, its employees, or its agents." S.C. Code Ann. §15-78-20(b); *see also* S.C. Code Ann. §15-78-200 ("[T]he 'South Carolina Tort Claims Act' is the exclusive and sole remedy for any tort committed by an employee of a governmental entity while acting within the scope of the employee's official duty."). The statute of limitations for bringing a claim pursuant to the South Carolina Tort Claims Act against a governmental entity, such as the Sumter County Sheriff's Office, is two (2) years. S.C. Code Ann. § 15-78-110 ("[A]ny action brought pursuant to this chapter is forever barred unless an action is commenced within two years after the date the loss was or should have been discovered.").

South Carolina case law charges plaintiffs with reasonable diligence in discovering a loss and bringing a claim within the statute of limitations. "The exercise of reasonable diligence means simply that an injured party must act with some promptness where the facts and circumstances of an injury would put a person of common knowledge and experience on notice that some right of his has been invaded or that some claim against another party might exist. The statute of limitations begins to run from this point and not when advice of counsel is sought or a full-blown theory of recovery developed." *Snell v. Columbia Gun Exchange, Inc.*, 276 S.C. 301, 303, 278 S.E.2d 333, 334 (1981).

The "statute of limitations … beg[ins] to run when the plaintiff should know that he might have a potential claim against another person, not when the plaintiff develops a fullblown theory of recovery." *Tanyel v. Osborne*, 312 S.C. 473, 475, 441 S.E.2d 329, 330 (Ct. App. 1994); *see also*, *Wiggins v. Edwards*, 314 S.C. 126, 128, 442 S.E.2d 169, 170 (1994)(the statute of limitations begins to run "upon the date of discovery of the injury, not the date of discovery of the wrongdoer*."*

This objective standard is called the discovery rule:

> The important date under the discovery rule is the date that a plaintiff discovers the injury, not the date of the discovery of the identity of another alleged wrongdoer. If, on the date of injury, a plaintiff knows or should know that she had some claim against someone else, the statute of limitations begins to run for all claims based on that injury.

Id., citing *Tollison v. B & J Machinery Co., Inc.*, 812 F.Supp. 618, 620 (D.S.C.1993).

For motor vehicle accidents, therefore, the statute of limitations begins to run on the date of the accident. *See id*. ("We hold that [the plaintiff] should have been aware of a potential claim on the date of the [motor vehicle] accident; therefore, the statute of limitations began to run at that time."); *see also, Tanyel*, 312 S.C. at 476, 441 S.E.2d at 331 (holding that plaintiff "witnessed the physical involvement of the bus in the accident. This fact, standing alone, gave him notice that he might have a potential claim against the bus driver. This notice triggered the statute of limitations, rather than the discovery of evidence actually supporting the potential claim.").

The motor vehicle accident in the present matter occurred on June 30, 2021. Am. Compl. ¶3. Therefore Mr. Helton's date of loss was June 30, 2021, and the statute of limitations began to run on June 30, 2021. Consequently, the statute of limitations to bring a claim against the Sheriff's Department expired two (2) year later on June 30, 2023. *See* S.C. Code Ann. § 15-78-110. Mr. Helton filed his initial Complaint on July 11, 2023, and his Amended Complaint on August 17, 2023.[2] The filing of both the Complaint and Amended Complaint occurred after the statute of limitations expired on June 30, 2023. Consequently, the circuit court appropriately dismissed Mr.

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[2] Given that both the Complaint and Amended Complaint were filed after expiration of the Statute of Limitations, there is no applicable distinction between the two filings for purposes of the issues in this appeal.

Helton's Amended Complaint because it was not timely filed pursuant to S.C. Code Ann. § 15-78-110. *See City of N. Myrtle Beach v. Lewis-Davis*, 360 S.C. 225, 231, 599 S.E.2d 462, 464 (Ct. App. 2004) ("Unless an action is commenced before expiration of the limitations period, the plaintiff's claim is normally barred.").

While Mr. Helton cites case law restating the discovery rule, he urges this Court to apply it subjectively and, therefore, improperly for two (2) reasons. First, Mr. Helton appears to argue that the statute of limitations did not begin to run on the date of the accident/injury but, instead, began to run later upon receipt of a second Accident Report identifying the party that contributed to the accident. *See* Appellant's Brief at pp. 5-7 (pointing an understanding of the officer's actions and the date Highway Patrol amended its findings as triggering the statute of limitations). This assertion is incorrect pursuant to South Carolina law and applies a subjective test to establish the time of discovery of plaintiff's injury, which the South Carolina Supreme Court has expressly rejected, holding that a subjective test "does not accord with well settled law." *Wiggins, 314 at* 128-29, 442 S.E.2d at 170 (holding that the statute of limitations began to run on the date of the motor vehicle accident not at the time plaintiff "was actually able to investigate her case, discover a cause of action existed, and determine who or what caused her injury"). Instead, plaintiff "should have been aware of a potential claim ***on the date of the accident***; therefore, the statute of limitations began to run at that time." *Id*. (emphasis added).

Mr. Helton's second argument appears to be that the statute of limitations did not begin on the date of his loss but, rather, when he was able to "determine a claim" against the Sheriff's Department based upon his assessment of immunities available under the South Carolina Tort Claims Act. *See* Appellant's Brief at pp. 5-6. As an initial matter, this is a repeated iteration of a subjective application of the discovery as discussed above. The statue of limitations does not begin to run when Mr. Helton subjectively completed his full liability analysis and determination that a cause of action existed as to the Sheriff's Department, particularly. Instead, as outlined above, it begins, objectively, on the date "when the plaintiff should know that he might have a potential claim against another person, not when the plaintiff develops a fullblown theory of recovery." *Tanyel*, 312 S.C. at 475, 441 S.E.2d at 330.

Further, Mr. Helton does not cite any authority to support his contention that the discovery should be applied differently when a defendant may invoke immunities or affirmative defenses available under the Tort Claims Act. *Compare* S.C. Code Ann. § 15-78-110 ("[A]ny action brought pursuant to this chapter is forever barred unless an action is commenced within two years after the date the loss was or should have been discovered."). Instead, the discovery rule is routinely applied to all claims brought pursuant to the Tort Claims Act. *See eg. Pollard v. County of Florence*, 314 S.C. 397, 444 S.E.2d 534 (1994) (upholding circuit court's order finding that plaintiff violated the two-year statute of limitations that began to run on the date of the motor vehicle accident involving an employee of Florence County's Sheriff's Office and driving a vehicle owned by the County of Florence).

Finally, the potential immunities and defenses provided by the Tort Claims Act in S.C. Code §15-78-69 are affirmative defenses that must be raised and proven by a defendant. *See e.g. Summer v. Carpenter*, 328 S.C. 36, 46, 492 S.E.2d 55, 60 (1997) ("The government entity bears the burden of establishing discretionary immunity as an affirmative defense."). There are forty (40) potential exceptions carved out by the General Assembly to the general waiver of immunity provided by the Tort Claims Act; these statutory exceptions are not elements of a plaintiff's claim or prerequisites to be subjectively determined by a plaintiff before bringing a cause of action. Therefore, the availability of potential affirmative defenses and immunities recognized both by statute or otherwise does not and should not impact application of the discovery rule to S.C. Code Ann. § 15-78-110, and Mr. Helton has not cited to any authority to support such a vast departure from precedent.

Accordingly, the circuit court correctly found the two-year statute of limitations began to run on the date of plaintiff's motor vehicle accident. Therefore, the filing of Mr. Helton's Complaint more than two (2) years later violated the statute of limitations and was appropriately be dismissed. Therefore, the circuit court's October 28, 2025. Order Granting the Sheriff's Department's Motion to Dismiss should be affirmed.

CONCLUSION

The circuit court applied the correct standard of review and appropriately concluded that Mr. Helton filed his Complaint after expiration of the applicable two-year statute of limitations. Therefore, the circuit court's October 28, 2025 Order Granting the Sheriff's Department's Motion to Dismiss should be affirmed.

Respectfully submitted,

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Columbia, South Carolina
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CERTIFICATE OF SERVICE

Pursuant to Section (d)(1) of the Supreme Court's Order Methods of Electronic Filing and Service Under Rule 262 of the South Carolina Appellate Court Rules (As Amended April 24, 2024), the undersigned employee of the Garfield Spreeuwers Law Group, counsel for the Respondent, does hereby certify that service of the **INITIAL BRIEF OF RESPONDENT** was made upon all counsel of record by email only this the 31st day of July 2026, as follows:

Stephen L. Hudson, Esquire
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s/Rachel M. Hutchens