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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM WILLIAMSBURG COUNTY
Court of Common Pleas

Paul M. Burch, Circuit Court Judge

Case No. 2024-CP-45-00505

Teavis Young, ...Appellant,

v.

Williamsburg County, ...Respondent.

BRIEF OF APPELLANT

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STATEMENT OF ISSUES ON APPEAL

1. Whether the circuit court erred in granting summary judgment based upon the affidavit of a witness who was not identified in Respondent's discovery responses despite interrogatories requesting the identity of persons having knowledge concerning maintenance and control of the premises.

2. Whether the circuit court improperly resolved conflicting evidence concerning Williamsburg County's maintenance and control of the premises by granting summary judgment notwithstanding the competing affidavits of Ruby McKnight and Lane Mixon.

3. Whether genuine issues of material fact exist regarding Williamsburg County's exercise of control and maintenance responsibilities over the premises sufficient to give rise to a duty of reasonable care.

4. Whether summary judgment was prematurely granted before Appellant had a fair opportunity to discover and investigate facts concerning maintenance responsibilities, prior complaints, and the factual basis for the assertions contained in Lane Mixon's affidavit.

5. Whether genuine issues of material fact exist regarding whether the condition complained of was open and obvious.

6. Whether the circuit court erred in concluding that Williamsburg County was entitled to immunity pursuant to S.C. Code Ann. § 15-78-60(8).

STATEMENT OF THE CASE

This is a premises liability action arising out of a fall that occurred on October 12, 2023, at the Williamsburg County Economic Development Building located at 130 West Main Street in Kingstree, South Carolina. Appellant, Teavis Young, entered the building to pay her water bill to the Williamsburg County Water and Sewer Authority. While entering the building during rainy conditions, Appellant allegedly encountered water that had accumulated near the entrance and fell, sustaining serious injuries.

On September 5, 2024, Appellant commenced this action against Respondent Williamsburg County, alleging that Respondent negligently failed to maintain the premises in a reasonably safe condition and that such negligence caused Appellant's injuries.

During discovery, Appellant served interrogatories and requests for production seeking, among other things, the identity of persons possessing knowledge concerning the facts of the case and persons having responsibility for maintenance and control of the premises. Respondent served discovery responses and later supplemented those responses.

In support of her claims, Appellant submitted the affidavit of Ruby McKnight, a former Williamsburg County maintenance employee who worked for Williamsburg County from 1992 until her retirement in 2020. Ms. McKnight testified that she regularly cleaned the Williamsburg County Economic Development Building under the direction and supervision of Williamsburg County personnel.

On February 11, 2026, Respondent moved for summary judgment. Respondent contended that Williamsburg County neither owned nor controlled the building where Appellant fell, that any condition resulting from rain was open and obvious, and that Williamsburg County was immune from liability pursuant to the South Carolina Tort Claims Act.

Appellant opposed the motion and asserted that genuine issues of material fact existed concerning control and maintenance of the premises and that summary judgment was premature because discovery remained incomplete.

In March 2026, after Appellant had filed her memorandum in opposition to summary judgment, Respondent submitted the affidavit of Lane Mixon, Director of the Williamsburg County Water and Sewer Authority. In his affidavit, Mixon asserted that Williamsburg County did not own, maintain, manage, or control the entrance area where Appellant allegedly fell, that he was unaware of any prior

complaints or incidents involving the entrance, and that no County employee created the alleged condition.

Respondent also submitted surveillance footage of the incident and documentary evidence concerning ownership of the building and the County's occupancy of office space within the building.

Following a hearing, the circuit court entered an Order granting Respondent's Motion for Summary Judgment. The circuit court concluded that Williamsburg County did not own or control the premises, that Respondent was entitled to immunity pursuant to S.C. Code Ann. § 15-78-60(8), and that the condition complained of was open and obvious.

Appellant timely served and filed a Notice of Appeal. This appeal followed.

STANDARD OF REVIEW

When reviewing a trial court's order granting summary judgment, the appellate court applies the same standard that governs the trial court pursuant to Rule 56(c), SCRCP. Joseph v. S.C. Dep't of Labor, Licensing & Regulation, 417 S.C. 436, Kerr v. Branch Banking & Trust Co., 408 S.C. 328. Summary judgment is appropriate only when the pleadings, depositions, answers to interrogatories, and admissions on file, together with affidavits, show that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law.

Critically, on appellate review of a summary judgment order, the appellate court must view all evidence and all reasonable inferences arising from the evidence in the light most favorable to the non-moving party. Joseph v. S.C. Dep't of Labor, Licensing & Regulation, 417 S.C. 436, Kerr v. Branch Banking & Trust Co., 408 S.C. 328. The appellate court will review all ambiguities, conclusions, and inferences arising in and from the evidence in a light most favorable to the non-moving party. Joseph v. S.C. Dep't of Labor, Licensing & Regulation, 417 S.C. 436, Madison v. Babcock Ctr., Inc., 371 S.C. 123.

The appellate court may decide questions of law with no particular deference to the trial court. Nelson v. Piggly Wiggly Cent., Inc., 390 S.C. 382. The South Carolina Supreme Court has clarified that the mere scintilla standard does not

apply under Rule 56(c), SCRCP. Kitchen Planners, LLC v. Friedman, 440 S.C. 456 Rather, the proper standard is the genuine issue of material fact standard set forth in the text of the Rule. Kitchen Planners, LLC v. Friedman, 440 S.C. 456. It is not sufficient for a party to create an inference that is not reasonable or an issue of fact that is not genuine. Kitchen Planners, LLC v. Friedman, 440 S.C. 456. The existence or non-existence of a duty in a negligence action is a question of law for the court. However, whether a defendant exercised reasonable care, whether a condition was natural or unnatural, whether a condition was open and obvious, and whether a defendant had actual or constructive notice of a dangerous condition are generally questions of fact for the jury.

The interpretation of S.C. Code Ann. § 15-78-60(8) is a question of law for the appellate court to decide de novo. The statute must be liberally construed in favor of limiting the liability of the governmental entity. S.C. Code Ann. § 15-78-200. However, the exceptions to immunity must be interpreted in a manner consistent with the statute's language and purpose.

ARGUMENT

ISSUE I

THE CIRCUIT COURT ERRED BY GRANTING SUMMARY JUDGMENT BASED UPON THE AFFIDAVIT OF A PREVIOUSLY UNDISCLOSED WITNESS, THEREBY DEPRIVING APPELLANT OF A MEANINGFUL

OPPORTUNITY TO TEST THE FACTUAL ASSERTIONS UPON WHICH SUMMARY JUDGMENT DEPENDED.

Appellant specifically propounded interrogatories requesting persons having knowledge concerning maintenance and control of the premises. Respondent failed to identify Lane Mixon and failed to supplement its responses under Rule 26(e), SCRCP. After Appellant filed her memorandum opposing summary judgment, Respondent produced the affidavit of Lane Mixon, whose assertions supplied the factual basis for summary judgment. Appellant had no meaningful opportunity to depose Mixon or investigate the basis of his assertions.

Rule 56(f), SCRCP, exists to prevent premature termination of litigation where essential facts remain unavailable. Respondent cannot rely upon the absence of evidence while simultaneously withholding the identity of the witness whose testimony supplied that alleged absence. Under South Carolina law, summary judgment is considered a drastic remedy that should be cautiously invoked to ensure litigants are not improperly deprived of a trial on disputed factual issues . John Doe v. Batson, 345 S.C. 316 (2001), Jones v. Enter. Leasing Company-Southeast, 383 S.C. 259 (2009). Accordingly, South Carolina courts strictly mandate that summary judgment must not be granted until the

opposing party has had a full and fair opportunity to complete discovery John Doe v. Batson, 345 S.C. 316 (2001), Jones v. Enter. Leasing Company-Southeast, 383 S.C. 259 (2009), Schmidt v. Courtney, 357 S.C. 310 (2003).

Because summary judgment was predicated upon the untested affidavit of a previously undisclosed witness, the order should be reversed.

ISSUE II.

THE CIRCUIT COURT IMPROPERLY WEIGHED CONFLICTING EVIDENCE CONCERNING CONTROL AND MAINTENANCE AND RESOLVED QUESTIONS RESERVED FOR THE TRIER OF FACT.

Ruby McKnight testified from personal knowledge that she cleaned the building under County supervision during her employment. Lane Mixon asserted the opposite. These competing affidavits created genuine issues of material fact concerning control and maintenance. Control, rather than title, determines duty. By accepting Mixon's affidavit as conclusive, the circuit court weighed evidence and resolved credibility issues reserved for the jury.

Under South Carolina law, summary judgment is regarded as a "drastic remedy" that must be cautiously invoked to avoid improperly depriving a litigant of a trial on disputed factual issues . Madison v. Babcock Ctr., Inc., 371 S.C. 123 (2006). A South Carolina court considering summary judgment is forbidden from making

factual determinations, weighing conflicting evidence regarding a disputed material fact, or considering the merits of competing testimony . John Deere Constr. & Forestry Co. v. N. Edisto Logging, Inc., 443 S.C. 424 (2024). Instead, the court must view the evidence and all reasonable inferences in the light most favorable to the non-moving party . Madison v. Babcock Ctr., Inc., 371 S.C. 123 (2006).

ISSUE III.

SUMMARY JUDGMENT WAS PREMATURE BECAUSE ESSENTIAL FACTS CONCERNING CONTROL, MAINTENANCE, AND NOTICE WERE UNIQUELY WITHIN RESPONDENT'S POSSESSION

Summary judgment should not be used to deprive a litigant of a fair opportunity to develop essential facts. Rule 56(f), SCRCP; Baughman v. Am. Tel. & Tel. Co., 306 S.C. 101, 410 S.E.2d 537 (1991). Here, the information concerning maintenance responsibilities, inspection procedures, prior complaints, and operational control resided almost exclusively with Respondent. Those issues became even more significant after Respondent relied upon the affidavit of previously undisclosed witness Lane Mixon. Without the opportunity to depose Mixon or examine the records upon which he relied, Appellant was deprived of a meaningful opportunity to test the factual basis of Respondent's motion.

Respondent cannot rely upon the absence of evidence while simultaneously controlling the information necessary to discover that evidence. Because essential facts remained unavailable to Appellant, summary judgment was premature.

ISSUE IV.

GENUINE ISSUES OF MATERIAL FACT EXIST REGARDING WHETHER THE CONDITION WAS OPEN AND OBVIOUS

Questions concerning whether a condition is open and obvious ordinarily present issues for the trier of fact. Callander v. Charleston Doughnut Corp., 305 S.C. 123, 406 S.E.2d 361 (1991). Even where a condition is open and obvious, a landowner may still owe a duty where it should reasonably anticipate that invitees will encounter the condition notwithstanding its obvious nature.

Respondent relies heavily upon surveillance footage and contends that Appellant simply lost her balance. Appellant, however, alleged that water accumulated near the entrance during rainy conditions and that the configuration of the entrance distracted her attention. At a minimum, competing inferences may be drawn from the evidence.

The existence of more than one reasonable inference renders summary judgment inappropriate. Consequently, the issue should have been submitted to the jury.

ISSUE V.

THE CIRCUIT COURT ERRED IN CONCLUDING AS A MATTER OF LAW THAT WILLIAMSBURG COUNTY WAS ENTITLED TO IMMUNITY UNDER THE SOUTH CAROLINA TORT CLAIMS ACT

The South Carolina Tort Claims Act constitutes a limited waiver of sovereign immunity, and the burden rests upon the governmental entity to establish the applicability of an exception. Proctor v. Dep't of Health & Env't Control, 368 S.C. 279, 628 S.E.2d 496 (Ct. App. 2006).

Respondent relies upon S.C. Code Ann. § 15-78-60(8) and argues that the condition complained of resulted solely from rain. However, the threshold issue remains whether Williamsburg County exercised sufficient control over the premises and whether its maintenance responsibilities contributed to the condition encountered by Appellant.

Those issues were disputed. Because genuine issues of material fact remained concerning control and maintenance responsibilities, the circuit court erred in concluding that Respondent established entitlement to immunity as a matter of law.

CONCLUSION

This case should not have been resolved through summary judgment.

The record contained competing evidence concerning Williamsburg County's maintenance and control of the premises. Appellant was deprived of the opportunity to depose a previously undisclosed witness whose affidavit became the cornerstone of Respondent's motion.

Viewing the evidence and all reasonable inferences in the light most favorable to Appellant, genuine issues of material fact remain. Appellant respectfully requests that the Order granting summary judgment be reversed and the matter remanded for completion of discovery and trial on the merits.

(SIGNATURE PAGE FOLLOWS)

Respectfully submitted this 21st day of June, 2026.

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