

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

H.A., by and through her guardians, Jane and John
Smith, and Jane and John Smith, individually,
Appellants,

v.

South Carolina Department of Social Services, South
Carolina Department of Children's Advocacy, Tammy
Gaye Causey Dalsing and Edward Anthony Dalsing,
Respondents.

Appellate Case No. 2023-001049

Appeal From Union County
Daniel Dewitt Hall, Family Court Judge

Unpublished Opinion No. 2026-UP-421
Heard May 5, 2026 – Filed August 19, 2026

AFFIRMED

Melinda Inman Butler, of The Butler Law Firm, of
Union, for Appellants.

Stephanie Holmes Burton and Larry Eugene Gregg, II,
both of Gibbes Burton, LLC, of Spartanburg, for
Respondents South Carolina Department of Social

Services and South Carolina Department of Children's Advocacy.

James P. Walsh and P. Christopher Smith, Jr., both of Clarkson, Walsh & Coulter, P.A., of Greenville; and Larry Dale Dove, of Thompson Dove Law Group LLC, of Spartanburg, all for Respondents Tammy Gaye Causey Dalsing and Edward Anthony Dalsing.

PER CURIAM: Jane and John Smith, individually and as guardians of their adopted minor child, (Relatives) appeal the circuit court's order granting summary judgment to the South Carolina Department of Social Services (DSS) and Tammy and Edward Dalsing (Foster Parents). We affirm.

FACTS/PROCEDURAL HISTORY

In 2013, the minor child was taken into emergency protective custody due to physical neglect. After being unable to identify a relative placement for the minor child, DSS placed her with Foster Parents. In 2014, the minor child's father identified Relatives as a potential placement option. Following a long series of hearings and appellate proceedings, Relatives filed an action to adopt the minor child, which was ultimately granted in 2019.

During the Family Court proceedings, reports were made to the Out of Home Abuse and Neglect unit against both Foster Parents and Relatives. All reports were determined by DSS to be unfounded until April 2018, when a report for physical abuse by one of the Foster Parents against the minor child was indicated. After an administrative hearing on the matter, DSS found there was insufficient evidence to prove that the Foster Parent had physically abused the minor child and it dismissed the finding against Foster Parent.

Relatives filed the subject action in the circuit court in 2018. Following motions for summary judgment filed by DSS and Foster Parents and a hearing on the motions, the circuit court granted summary judgment in favor of DSS and Foster Parents. This appeal followed.

ISSUE ON APPEAL

Did the circuit court err in granting summary judgment to DSS and Foster Parents?

STANDARD OF REVIEW

This court reviews a grant of summary judgment under the same standard applied by the circuit court under Rule 56(c), SCRCP. *Loflin v. BMP Dev., LP*, 427 S.C. 580, 588, 832 S.E.2d 294, 298–99 (Ct. App. 2019). Pursuant to Rule 56(c), summary judgment is proper "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." "Thus, the appellate court reviews all ambiguities, conclusions, and inferences arising in and from the evidence in a light most favorable to the non-moving party." *Pee Dee Stores, Inc. v. Doyle*, 381 S.C. 234, 240, 672 S.E.2d 799, 802 (Ct. App. 2009). "However, it is not sufficient for a party to create an inference that is not reasonable or an issue of fact that is not genuine." *McMaster v. Dewitt*, 411 S.C. 138, 143, 767 S.E.2d 451, 453–54 (Ct. App. 2014) (quoting *Town of Hollywood v. Floyd*, 403 S.C. 466, 477, 744 S.E.2d 161, 166 (2013)).

LAW/ANALYSIS

I. SUMMARY JUDGMENT

Relatives argue the circuit court erred in granting summary judgment in favor of Foster Parents and DSS on Relatives' various negligence claims.¹ We disagree.

A. Claims against DSS

We hold the circuit court did not err in granting summary judgment to DSS on Relatives' claims on behalf of the minor child and themselves. The complaint alleges claims of ordinary negligence, gross negligence, and negligence per se. Pursuant to the South Carolina Tort Claims Act (the Act),² a government entity, such as DSS, can only be found liable for gross negligence claims. S.C. Code Ann. § 15-78-60(25) ("[A] governmental entity is not liable for a loss resulting from: . . . responsibility or duty including but not limited to supervision, protection, control, confinement, or custody of any student, patient, prisoner, inmate, or client of any governmental entity, except when the responsibility or duty is exercised in a grossly negligent manner."); see also *Rainey v. S.C. Dep't of Soc. Servs.*, 434 S.C.

¹ We note that Relatives' appellate brief is largely vague and conclusory.

² S.C. Code Ann. §§ 15-78-10 to -200 (2005 & Supp. 2025).

342, 350, 863 S.E.2d 470, 474 (Ct. App. 2021) (providing that under the Act, a government entity can only be liable for claims of gross negligence). Moreover, section 63-7-400 provides DSS with discretionary immunity.^{3,4} S.C. Code Ann. § 63-7-400 (2010) ("An employee, volunteer, or official of the Department of Social Services required or authorized to perform child protective or child welfare-related functions . . . is *immune from civil or criminal liability* which might otherwise result by reason of acts or omissions within the scope of the official duties of the employee, volunteer, convener, officer, or official, as long as the employee, volunteer, convener, officer, or official acted in good faith *and was not reckless, wilful, wanton, or grossly negligent*. . . . This grant of immunity is cumulative to and does not replace any other immunity provided under the South Carolina Tort Claims Act." (emphases added)); *see also* § 15-78-60(5) (stating that a governmental entity is not liable for a loss from "the exercise of discretion or judgment by the governmental entity or employee or the performance or failure to

³ For support, we highlight SCDSS' expert affidavit filed in conjunction with the motion for summary judgment in which the expert indicated DSS "utilized accepted professional standards" in (1) placing the minor child in foster care with Foster Parents, (2) conducting its abuse investigations, and (3) searching for a relative placement option for the minor child. Further, Relatives' own expert witness testified in her deposition that she had no specific opinion about DSS in regard to this case. This evidence along with other evidence in the record demonstrating that Foster Parents were licensed caregivers, that DSS worked to find a relative placement for the minor child, and that DSS investigated various claims of abuse of the minor child by the Foster Parents support a finding of discretionary immunity. *See Jensen v. Anderson Cnty. Dept. of Soc. Servs.*, 304 S.C. 195, 199, 403 S.E.2d 615, 617 (1991) (finding a determination of discretionary immunity "requires a showing of competent evidence").

⁴ Relatives also argue that because the Act only excludes intentional conduct and not reckless conduct, their claims were not barred and DSS was not immune. It is entirely unclear why Relatives raise these arguments because they did not raise a claim for outrage or intentional infliction of emotional distress in their original complaint, nor did the trial court's summary judgment order rule on either claim or mention a distinction between intentional and reckless conduct. Therefore, we hold Appellants' arguments regarding outrage, intentional infliction of emotional distress, and intentional conduct versus reckless conduct are not preserved for our review. *See Wilder Corp. v. Wilke*, 330 S.C. 71, 76, 497 S.E.2d 731, 733 (1998) ("It is axiomatic that an issue cannot be raised for the first time on appeal, but must have been raised to and ruled upon by the trial judge to be preserved for appellate review.").

perform any act or service which is in the discretion or judgment of the governmental entity or employee"). Based on the foregoing, we hold the Act's applicable statute of limitations bars relief to any of Relatives' remaining gross negligence claims. *See* § 15-78-110 ("Except as provided for in Section 15-3-40, any 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*; provided, that if the claimant first filed a claim pursuant to this chapter then the action for damages based upon the same occurrence is forever barred unless the action is commenced within three years of the date the loss was or should have been discovered." (emphasis added)). Relatives allege the child suffered abuse in her placement with Foster Parents. The record indicates Relatives were aware of the alleged abuse no later than 2016.⁵ Relatives filed their action in March 2020. Thus, pursuant to section 15-78-110, the claims are time barred and summary judgment was proper.

B. Claims against Foster Parents

To the extent Relatives assert the circuit court erred in granting Foster Parents summary judgment, we hold any raised assertions are vague and conclusory and are therefore abandoned. *See Glasscock, Inc. v. U.S. Fid. & Guar. Co.*, 348 S.C. 76, 81, 557 S.E.2d 689, 691 (Ct. App. 2001) ("South Carolina law clearly states that short, conclusory statements made without supporting authority are deemed abandoned on appeal and therefore not presented for review.").

Based on the foregoing, the order of the family court is

AFFIRMED.

WILLIAMS, C.J., and KONDUROS and VINSON, JJ., concur.

⁵ This is a generous estimate as Relatives first appeared in the family court on June 6, 2014. In its order, the circuit court stated: "There is no evidence that Plaintiffs filed a claim, nor did they contend that they did so at the hearing. Thus, the two-year statute of limitations applies. Plaintiffs filed this Action against DSS and South Carolina Department of Children's Advocacy on March 11, 2020. Thus, if their claims accrued before March 11, 2018, they are time-barred."