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SC Court of Appeals

**THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS**

Appeal from Charleston County
Court of Common Pleas

Eugene P. Warr, Jr., Circuit Court Judge

Appellate Case No. 2026-000211
Circuit Court Case No. 2025-CP-10-03621

Joel Ndunda,

Appellant,

v.

Brandi Pfeil, LP-A, Crisis Intervention Employee, individually and officially;
Caitlyn McGarty, Crisis Intervention Employee, individually and officially;
South Carolina Department of Behavioral and Developmental Disabilities,
Office of Mental Health; and Charleston Dorchester Mental Health Center,

Defendants,

Of which Brandi Pfeil, Caitlin McGarty, and The South Carolina Department
of Behavioral Health and Developmental Disabilities are the

Respondents.

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INTRODUCTION

On May 1, 2025, Plaintiff's¹ parents (with whom Plaintiff lived) were sufficiently concerned that Plaintiff (their adult son) was experiencing a mental health crisis that they went to the Department's² Charleston Dorchester Mental Health Center facility and discussed the matter with Department employee, Pfeil, a mental health clinician, and a little later in the day, after leaving their in-person meeting with Pfeil, called and advised that they would like a mobile crisis unit to come to their home to evaluate Plaintiff's mental health.

At about 5:30 p.m., Pfeil and her fellow Department mental health clinician McGarty, accompanied by a law enforcement officer (a uniformed Charleston police officer), responded to the family home to evaluate Plaintiff's mental health and if needed, i.e., if their evaluation of Plaintiff led them to believe it appropriate, and in accordance with the governing statutory law regarding the custody and admission of persons needing immediate care, attest to their belief that Plaintiff was likely to cause serious harm to himself or others if not hospitalized in an affidavit to be presented to the Charleston County probate judge, who would then decide whether to issue an order of detention authorizing the law enforcement officer to take Plaintiff into custody for a period not exceeding 24 hours to be examined by a licensed physician.

Upon examining Plaintiff, Pfeil and McGarty did indeed determine that, in their clinical judgment, he was likely to cause serious harm to himself or others if not hospitalized. They attested to this belief in an affidavit that was presented to the probate judge, and the probate judge issued an order for Plaintiff's detention. The law enforcement officer then took Plaintiff into custody and

¹ "Plaintiff" refers to Plaintiff/Appellant, Joel Ndunda.

² The "Department" refers to Defendant/Respondent The South Carolina Department of Behavioral Health and Developmental Disabilities. "Defendants" refers to Defendants/Respondents Brandi Pfeil ("Pfeil"), Caitlin McGarty ("McGarty"), and the Department, collectively.

transported him to MUSC, whereupon he was examined and released the next day, May 2, 2025, less than 24 hours after he had been taken into custody.³

Plaintiff, a pro se litigant, claims Defendants—a governmental entity under the SCTCA⁴ and two of its employees—are liable to him for millions of dollars in actual and punitive damages under various causes of action, all of them reliant on the (facially implausible and, to be sure, factually incorrect) premise that the mental health evaluation that precipitated his involuntary detention to MUSC was knowingly false, i.e., that Pfeil and McGarty, two mental health clinicians who would not have had any interaction with Plaintiff at all that day but for the request of his own concerned parents, did not find him in need of hospitalization as a result the good faith exercise of their clinical judgment, but rather deliberately misrepresented his mental health status to make it seem as though it was appropriate for him to be taken into custody for further examination when they knew it was not.

Recognizing the profound chilling effect that allowing lawsuits like this to proceed would have on clinicians’ ability to protect vulnerable people suffering from mental illness and the public

³ Plaintiff improperly attempts to inject into these proceedings the notion that his detention by law enforcement was unaccompanied by the statutorily required affidavit and/or order of detention. As the circuit court correctly found (Order of Dismissal p. 3 (“Plaintiff does not allege that his detention to MUSC was done without an Order of Detention by the probate court.”)), Plaintiff’s complaint alleges no such thing. (Compl.) In other words, Plaintiff framed his own case so as to place the existence of these documents beyond dispute. Moreover, attached to their return to Plaintiff’s motion for summary reversal etc., which motion this Court denied by order filed September 18, 2026, Defendants provided documentary proof that these documents (which the Charleston Police Department refers to as “white papers”) existed at the time Plaintiff was taken into custody by law enforcement. (See Exs. 5 & 6 to Respondent’s Return to Appellant’s Mot. for Summary Reversal etc.) And in any event, even if it were true that Plaintiff was taken into custody by law enforcement in the absence of either or both of these documents, it would not give rise to or strengthen any claim by Plaintiff against Defendants, because even if the order of detention was issued without the requisite affidavit, it was not Pfeil or McGarty who issued the order, and even if Plaintiff was taken into custody without the affidavit and/or order of detention, it was not Pfeil or McGarty who took Plaintiff into custody.

if those who may disagree with their professional judgment can unlock the doors to discovery simply by labeling their exercise of that judgment nefarious, the circuit court correctly acted as gatekeeper in dismissing this action with prejudice on grounds both under and independent of the SCTCA. Most respectfully, this result should be affirmed.

COUNTER-STATEMENT OF ISSUES ON APPEAL

- I. Has Plaintiff met his burden as the appellant to demonstrate reversible error by the circuit court in dismissing all of his claims against Defendants with prejudice?**
 - A. Has Plaintiff demonstrated reversible error by the circuit court in dismissing his claims against Defendants on the basis of immunity under the SCTCA?**
 - 1. Has Plaintiff demonstrated reversible error by the circuit court in dismissing his claims against Defendants on the basis of quasi-judicial immunity under the SCTCA?**
 - 2. Has Plaintiff demonstrated reversible error by the circuit court in dismissing his claims against Defendants on the basis of discretionary immunity under the SCTCA?**
 - 3. Has Plaintiff demonstrated reversible error by the circuit court in dismissing his claims against Pfeil and McGarty in their individual capacities?**
 - B. Even assuming, *arguendo*, that Plaintiff has demonstrated reversible error by the circuit court in dismissing his claims against Defendants on the basis of immunity under the SCTCA, are Plaintiff's claims against Defendants nonetheless barred by common law quasi-judicial immunity?**
 - C. Even assuming, *arguendo*, that Plaintiff has demonstrated reversible error by the circuit court in dismissing his claims against Defendants on the basis of immunity under the SCTCA and that Plaintiff's claims against Defendants are not barred by common law quasi-judicial immunity, has Plaintiff demonstrated reversible error by the circuit court in dismissing his claims on bases independent of the SCTCA?**
 - 1. Has Plaintiff demonstrated reversible error by the circuit court in dismissing his claim against Defendants for false imprisonment?**

⁴ The "SCTCA" refers to the South Carolina Tort Claims Act, S.C. Code Ann. §§ 15-78-10 to -220.

2. **Has Plaintiff demonstrated reversible error by the circuit court in dismissing his claim against Defendants for abuse of process (or, for that matter, malicious prosecution)?**
3. **Has Plaintiff demonstrated reversible error by the circuit court in dismissing his claim against Defendants for defamation?**
4. **Has Plaintiff demonstrated reversible error by the circuit court in dismissing his claim against Defendants for intentional infliction of emotional distress?**
5. **Has Plaintiff demonstrated reversible error by the circuit court in dismissing his claim against Defendants for civil conspiracy?**
6. **Has Plaintiff demonstrated reversible error by the circuit court in dismissing his claim against Defendants for invasion of privacy: public disclosure of private facts?**

COUNTER-STATEMENT OF THE CASE

Chapter 17 of Title 44 of the South Carolina Code of Laws addresses the care and commitment of mentally ill persons, and Article 5 of that chapter addresses the custody and admission of persons requiring immediate care.

Article 5 includes S.C. Code Ann. § 44-17-410, which, in its three subsections (namely, § 44-17-410(1), (2), and (3)), sets forth a procedure whereby a person who is believed to have a mental illness (as defined in S.C. Code Ann. § 44-23-10(21)⁵) that creates a likelihood of serious harm (as defined in § 44-23-10(13)⁶) to the person or others if not immediately hospitalized may be involuntarily admitted to a healthcare facility. This procedure includes, in subsection (2), the

⁵ Under § 44-23-10(21), “‘Person with a mental illness’ means a person with a mental disease to such an extent that, for the person’s own welfare or the welfare of others or of the community, the person requires care, treatment, or hospitalization.”

⁶ Under § 44-23-10(13), “‘Likelihood of serious harm’ means because of mental illness there is: (a) a substantial risk of physical harm to the person himself as manifested by evidence of threats of, or attempts at, suicide or serious bodily harm; (b) a substantial risk of physical harm to other persons as manifested by evidence of homicidal or other violent behavior and serious harm to them; or (c) a very substantial risk of physical impairment or injury to the

requirement that the person be examined by at least one licensed physician and that the physician certify that they have examined the person and that they (the physician) are “of the opinion that the person is mentally ill and because of this condition is likely to cause harm to himself through neglect, inability to care for himself, or personal injury, or otherwise, or to others if not immediately hospitalized.” § 44-17-410(2).

Article 5 also includes S.C. Code Ann. § 44-17-430, which provides an alternative procedure for when a person believed to need involuntary hospitalization pursuant to § 44-17-410 cannot be examined by at least one licensed physician pursuant to § 44-17-410(2). Under § 44-17-430, the petitioner seeking commitment must “execute an affidavit stating a belief that the individual is mentally ill and because of this condition likely to cause serious harm if not hospitalized, the ground for this belief and that the usual procedure for examination [in § 44-17-410(2)] cannot be followed and the reason why.” Then, upon presentment of the affidavit, “the judge of probate for the county in which the individual is present may issue an order requiring a state or local law enforcement officer to take the individual into custody for a period not exceeding twenty-four hours.” § 44-17-430. A person detained under this procedure “must be examined by at least one licensed physician as provided for in Section 44-17-410(2).” § 44-17-430. “If within the twenty-four hours the person in custody is not examined by a licensed physician or, if upon examination the physician does not execute the certification provided for in Section 44-17-410(2), the proceedings must be terminated and the individual in custody must be released immediately.” § 44-17-430. “Otherwise, proceedings must be held pursuant to Section 44-17-410(3).” § 44-17-430.

Essentially, § 44-17-430 provides for a two-part alternative for accomplishing subsections (1) and (2) of § 44-17-410. Part I consists of the execution of the required affidavit, the presentation

person himself as manifested by evidence that the person is gravely disabled and that reasonable

of the affidavit to the probate judge, and the probate judge’s issuance (or not) of a detention order requiring the person believed to be mentally ill to be taken into custody for up to 24 hours. If the probate judge declines to issue the order, Part II is moot. If, however, the probate judge issues the order, the person is taken into custody and the process continues to Part II, which consists of the person’s examination by a licensed physician and the physician’s execution (or not) of the certification provided for in § 44-17-410(2) or the expiration of 24-hour period without the person being examined. If the physician does not execute the certification or the 24-hour period simply ends without the person being examined, the person must be released immediately. If, however, the physician issues the certification, the matter proceeds pursuant to § 44-17-410(3).

According to Plaintiff and his mother and father (as set forth in affidavits Plaintiff filed), the following basic sequence of events occurred on May 1 and 2, 2025:

- On May 1, 2025, following Plaintiff’s receipt of a cyber hate-crime video depicting graphic violence against a Black man,⁷ Plaintiff’s mother and father visited the Department’s Charleston Dorchester Mental Health Center facility where they discussed their concerns about Plaintiff’s “emotional distress”⁸ / “emotional state”⁹ with Department mental health clinician Pfeil. (Aff. of Mother ¶¶ 4–5; Aff. of Father ¶¶ 3, 5.)
- During their meeting with Pfeil, Pfeil informed Plaintiff’s mother and father that a mobile mental health crisis unit could, if Plaintiff’s mother and father wished,

provision for the person’s protection is not available in the community.”

⁷ (Compl. ¶¶ 1, 7; *id.* at Ex. A; Aff. of Dr. Mutindi Ndunda (“Aff. of Mother”) ¶¶ 2–3; Aff. of Thomas Ndunda Ndambuki (“Aff. of Father”) ¶¶ 2–3.)

⁸ (Aff. of Mother ¶ 3.)

⁹ (Aff. of Father ¶ 3.)

“assess whether [Plaintiff] was in crisis.” (Aff. of Mother ¶ 4 (original bold print omitted); *see also* Aff. of Father ¶ 3.)

- After leaving the facility, Plaintiff’s mother and father called the facility to confirm that they wished for the mobile crisis unit to come to their home and assess Plaintiff. (Aff. of Mother ¶ 4; Aff. of Father ¶ 4.)
- Pfeil, Department mental health clinician Pfeil McGarty, and a law enforcement officer arrived at the family home that afternoon at about 5:30. (Aff. of Mother ¶ 6; Aff. of Father ¶ 6.)
- After Pfeil and McGarty assessed Plaintiff, the law enforcement officer took Plaintiff into custody and transported him to MUSC, whereupon he was examined further and released the next day, May 2, 2025, less than 24 hours after he had been taken into custody. (Compl. ¶¶ 1–14; Aff. of Mother ¶¶ 7–19; Aff. of Father ¶¶ 7–17.)¹⁰

Alleging (albeit implausibly, as explained below) that Pfeil and McGarty caused him to be wrongfully taken into custody by law enforcement for further examination by deliberately misrepresenting his mental health status, Plaintiff filed this action in the Charleston County Court of Common Pleas on June 24, 2025, asserting claims against Defendants for false imprisonment, malicious prosecution, defamation, intentional infliction of emotional distress, civil conspiracy, and invasion of privacy: public disclosure of private facts. (Summons & Compl.)^{11 12}

¹⁰ Again, there is no allegation in Plaintiff’s complaint that he was taken into custody by law enforcement in the absence of the affidavit and order of detention required by § 44-17-430, but in any event, it was not Pfeil or McGarty who issued the order of detention or took Plaintiff into custody.

¹¹ Contrary to Plaintiff’s assertion, his complaint does not assert a claim under 42 U.S.C. § 1983. And given that no such claim was ruled on in the circuit court’s order of dismissal (Order of Dismissal), and Plaintiff did not make a motion under Rule 59(e), SCRCp, asking the circuit court to rule thereon, any argument by Plaintiff in regard to such a claim is not preserved for review. *Elam v. S.C. Dep’t of Transp.*, 361 S.C. 9, 25, 602 S.E.2d 772, 780 (2004)

On July 25, 2025, Defendants moved to dismiss this action pursuant to Rule 12(b)(6), SCRCF. (Defs.’ Motion to Dismiss.)¹³ The circuit court heard the motion on October 9, 2025, the Honorable Eugene P. Warr, Jr., presiding,¹⁴ and granted it by order filed November 3, 2025, dismissing Plaintiff’s complaint with prejudice. (Dismissal Order.) Plaintiff did not seek reconsideration, alteration, or amendment of the order under Rule 59(e).¹⁵

(noting that South Carolina’s preservation requirements are “mandatory”); *id.* at 23, 602 S.E.2d at 779–80 (“Issues and arguments are preserved for appellate review only when they are raised to and ruled on by the lower court.”); *id.* at 24, 602 S.E.2d at 780 (“[O]ur rules contemplate two basic situations in which a party should consider filing a Rule 59(e) motion. A party *may* wish to file such a motion when she believes the court has misunderstood, failed to fully consider, or perhaps failed to rule on an argument or issue, and the party wishes for the court to reconsider or rule on it. A party *must* file such a motion when an issue or argument has been raised, but not ruled on, in order to preserve it for appellate review.”) (emphasis in original).

¹² Besides the allegations about Pfeil and McGarty’s alleged misrepresentation of his mental health status, Plaintiff’s complaint also includes allegations about the law enforcement officer having parked farther than necessary away from his home (making his detention less private than it could have been) and about his experience at MUSC, but none of these allegations have anything to do with Defendants.

¹³ Contemporaneously, Defendants also moved to strike Plaintiff’s prayer for punitive damages (Defs.’ Motion to Strike Punitive Damages), but this motion was eventually mooted by circuit court’s dismissal of the action.

¹⁴ (Hearing Transcript.)

¹⁵ On October 21, 2025, after the hearing on Defendants’ motion to dismiss, Plaintiff filed a motion entitled, “Plaintiff’s Emergency Motion for Sanctions, Adverse Inference, and Referral for Criminal Investigation Based on Defendants’ Admission of Judicial Corruption and Fraud on This Court.” (Pl.’s Emergency Mot. filed October 21, 2025; *see also* Supplemental Filing in Supp. of Pl.’s Emergency Mot. filed October 27, 2025.) Alleging “fraud on th[e] Court, judicial corruption, and systematic criminal conspiracy involving multiple healthcare facilities and judicial officers” (Pl.’s Emergency Mot. p. 4), this motion is absurd on its face. Having correctly decided to dismiss this action with prejudice, the circuit court correctly decided against taking action on the motion. (Order of Dismissal p. 17.) And in any event, Plaintiff having not sought reconsideration, alteration, or amendment under Rule 59(e), no argument by Plaintiff in respect of the motion can now be preserved for review. *Elam*, 361 S.C. at 25, 602 S.E.2d at 780 (noting that South Carolina’s preservation requirements are “mandatory”); *id.* at 23, 602 S.E.2d at 779–80 (“Issues and arguments are preserved for appellate review only when they are raised to and ruled on by the lower court.”); *id.* at 24, 602 S.E.2d at 780 (“[O]ur rules contemplate two basic situations in which a party should consider filing a Rule 59(e) motion. A party *may* wish to file such a motion when she believes the court has misunderstood, failed to fully consider, or perhaps failed to rule on an argument or issue, and the party wishes for the court to reconsider or

This appeal by Plaintiff followed.

STANDARD OF REVIEW

A. The Rule 12(b)(6) Standard

On appeal from the dismissal of a case pursuant to Rule 12(b)(6), an appellate court applies the same standard of review as the trial court. *Williams v. Condon*, 347 S.C. 227, 233, 553 S.E.2d 496, 500 (Ct. App. 2001). That standard requires the Court to construe the complaint in a light most favorable to the nonmovant and determine if the “facts alleged and the inferences reasonably deducible from the pleadings would entitle the plaintiff to relief on any theory of the case.” *Id.* at 233, 553 S.E.2d at 499.

B. The Pleading Standard

Rule 8(a), SCRCF, requires, among other things, that a complaint contain “a short and plain statement of the *facts* showing that the pleader is entitled to relief” (emphasis added). Its accompanying note makes expressly clear that “[t]his Rule 8(a) [(i.e., South Carolina’s Rule 8(a))] is in the same general language as the Federal Rule *with the important distinction that the State practice requiring pleading of the facts (rather than a ‘statement of the claim’) is retained.*” (emphasis added). As Professor Flanagan explains, “South Carolina retains Code Pleading rather than the notice pleading of the federal rules. Rule 8 requires the pleader to state the facts supporting the cause of action or defense alleged. Code Pleading has two core concepts: First, each element of the cause of action must be alleged, and a complaint that omits an element fails to state a claim. Second, the pleader must describe each element of the cause of action in terms of the facts of the case.” James F. Flanagan, *South Carolina Civil Procedure* 58-

rule on it. A party *must* file such a motion when an issue or argument has been raised, but not ruled on, in order to preserve it for appellate review.”) (emphasis in original).

59 (1996); *id.* at 64 (“South Carolina retained the Code Pleading requirement that factual detail is necessary to state a claim or defense.”).

South Carolina’s comparatively more stringent pleading requirements are also reflected in the language of Rule 12(b)(6): South Carolina’s rule is phrased in terms of “failure to state *facts* sufficient to constitute a cause of action;” whereas, the federal rule speaks of “failure to state *a claim* upon which relief can be granted.” (emphasis added). Here, again, Professor Flanagan explains,

A Rule 12(b)(6) motion tests the legal sufficiency of the pleading. The detail and content of the pleading are reviewed in light of the general pleading rules. [South Carolina] Rule 8(a) retains the Code Pleading standard as does Rule 12(b)(6), so the complaint must state facts sufficient to state a cause of action rather than the more lenient notice pleading standard found in the federal rules.

Flanagan, *supra*, at 93; *see also id.* (“[T]he complaint must allege facts on each element of the cause of action . . .”).

But even under the more *lenient* federal standard, though it “does not require ‘detailed factual allegations,’ . . . it [still] demands more than an unadorned, the-defendant-unlawfully-harmed-me accusation[,]” “[a] pleading that offers ‘labels and conclusions’ or ‘a formulaic recitation of the elements of a cause of action will not do.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007)). “Nor does a complaint suffice if it tenders ‘naked assertion[s]’ devoid of ‘further factual enhancement.’” *Id.* (quoting *Twombly*, 550 U.S. at 557); *see also id.* at 678–79 (“Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice. . . . Rule 8 marks a notable and generous departure from the hyper-technical, code-pleading regime of a prior era, but it does not unlock the doors of discovery for a plaintiff armed with nothing more than conclusions. . . . [O]nly a complaint that states a plausible claim for relief survives a motion to

dismiss. . . . [W]here the well-pleaded facts do not permit the court to infer more than the mere possibility of misconduct, the complaint has alleged—but it has not ‘show[n]’—‘that the pleader is entitled to relief.’”) (quoting Rule 8(a)(2), FRCP); *Nemet Chevrolet, Ltd. v. Consumeraffairs.com, Inc.*, 591 F.3d 250, 255 (4th Cir. 2009) (“[L]egal conclusions, elements of a cause of action, and bare assertions devoid of further factual enhancement fail to constitute well-pled facts for Rule 12(b)(6) purposes.”).

C. Plaintiff’s Burden on Appeal

Appealed orders come to the appellate court with a presumption of correctness, and the burden is on the appellant to demonstrate reversible error. *McCall v. IKON*, 380 S.C. 649, 659–60, 670 S.E.2d 695, 701 (Ct. App. 2008). And to succeed, the appellant’s demonstration of reversible error must be based on issues/arguments that are properly preserved and presented to the appellate court for review. *See Kennedy v. S.C. Retirement Sys.*, 349 S.C. 531, 532–33, 564 S.E.2d 322, 323 (2001) (recognizing that preserving issues for appellate review is a fundamental component of appellate practice, as South Carolina appellate courts do not recognize the plain error rule); *Elam*, 361 S.C. at 25, 602 S.E.2d at 780 (noting that South Carolina’s preservation requirements are “mandatory”); *id.* at 23, 602 S.E.2d at 779–80 (“Issues and arguments are preserved for appellate review only when they are raised to and ruled on by the lower court.”); *id.* at 24, 602 S.E.2d at 780 (“[O]ur rules contemplate two basic situations in which a party should consider filing a Rule 59(e) motion. A party *may* wish to file such a motion when she believes the court has misunderstood, failed to fully consider, or perhaps failed to rule on an argument or issue, and the party wishes for the court to reconsider or rule on it. A party *must* file such a motion when an issue or argument has been raised, but not ruled on, in order to preserve it for appellate review.”) (emphasis in original).

ARGUMENT

I. Plaintiff has not met his burden as the appellant to demonstrate reversible error by the circuit court in dismissing his claims against Defendants with prejudice.

The essential premise of Plaintiff's complaint is the bald assertion that Pfeil and McGarty deliberately misrepresented his mental health status unadorned by facts making such an assertion plausible. (Compl.) Plaintiff's threadbare complaint cobbles together alleged discrepancies in Pfeil and McGarty's evaluation (such as their description of him as "cooperative and compliant," which, he alleges, "underscore[es] the internal contradiction and falsity of their narrative"¹⁶), the fact that he was released from MUSC after further examination (which he alleges "underscore[s] the lack of probable cause for the detention"),¹⁷ and his own lay opinion disagreeing with Pfeil and McGarty's evaluation to reach the unjustified conclusion that their evaluation was not just incorrect but deliberately false. The dismissal of this action should be affirmed on grounds both under and independent of the SCTCA.

A. Plaintiff has not demonstrated reversible error by the circuit court in dismissing his claims against Defendants on the basis of immunity under the SCTCA.

The Department is a governmental entity under the SCTCA,¹⁸ and Pfeil and McGarty are employees of the Department. Accordingly, the SCTCA "constitutes the exclusive remedy" for

¹⁶ (Compl. ¶ 3 (original bold print omitted).)

¹⁷ (Compl. ¶ 13.)

¹⁸ See § 15-78-30(d) ("Governmental entity' means the State and its political subdivisions."); § 15-78-30(a) ("Agency' means the individual office, agency, authority, department, commission, board, division, instrumentality, or institution, including a state-supported governmental health care facility, school, college, university, or technical college, which employs the employee whose act or omission gives rise to a claim under this chapter."); § 15-78-30(e) ("State' means the State of South Carolina and any of its offices, agencies, authorities, departments, commissions, boards, divisions, instrumentalities, including the South Carolina Protection and Advocacy System for the Handicapped, Inc., and institutions, including state-supported governmental health care facilities, schools, colleges, universities, and technical colleges.").

the torts Plaintiff alleges to have been committed by Pfeil and McGarty. § 15-78-70(a) (“This chapter constitutes the exclusive remedy for any tort committed by an employee of a governmental entity.”).

Except for conduct “constitute[ing] actual fraud, actual malice, intent to harm, or a crime involving moral turpitude,”¹⁹ which is addressed in Argument IA3 below, employees of governmental entities are not liable for torts committed while acting within the scope of their official duties. § 15-78-70(a) (“An employee of a governmental entity who commits a tort while acting within the scope of his official duty is not liable therefor except as expressly provided for in subsection (b).”).²⁰ Indeed, in an action against a governmental entity, only the governmental entity is supposed to be named as a party defendant. § 15-78-70(c) (“[W]hen bringing an action against a governmental entity under the provisions of this chapter, *shall name as a party defendant only the agency or political subdivision for which the employee was acting* and is not required to name the employee individually, unless the agency or political subdivision for which the employee was acting cannot be determined at the time the action is instituted. In the event that the employee is individually named, the agency or political subdivision for which the employee was acting *must be substituted as the party defendant.*”) (emphasis added).

¹⁹ § 15-78-70(b).

²⁰ If, however, the employee is individually liable, either because their conduct was outside the scope of their official duties or constituted actual fraud, actual malice, intent to harm, or a crime involving moral turpitude, the governmental entity itself is not liable. *Newkirk v. Enzor*, 240 F. Supp. 3d 426, 436 (D.S.C. 2017) (“[U]nder the SCTCA, for a given tort, either the governmental entity or the employee is liable but not both. An employee of a governmental entity who commits a tort while acting within the scope of his official duty is not liable and the plaintiff must sue the governmental agency itself. *Roberts v. City of Forest Acres*, 902 F. Supp. 662, 671 (D.S.C. 1995) (citing S.C. Code § 15-78-70(a)). ‘However, if the plaintiff proves that ‘the employee’s conduct was not within the scope of his official duties or that it constituted actual fraud, actual malice, intent to harm, or a crime involving moral turpitude,’ then the governmental agency is not liable, and the employee is personally liable.’” *Id.* (quoting S.C. Code § 15-78-70(b)).”).

“The provisions of [the SCTCA] establishing limitations on and exemptions to the liability of the State, its political subdivisions, and employees, while acting within the scope of official duty, must be liberally construed in favor of limiting the liability of the State.” § 15-78-20(f). And in dismissing Plaintiff’s claims against Defendants on the basis of immunity under the SCTCA, the circuit court correctly construed both the SCTCA and Plaintiff’s complaint, to include, without limitation, its ruling that the work Pfeil and McGarty were doing at the time relevant to Plaintiff’s complaint (responding to Plaintiff’s parents’ request for a visit from a mobile crisis unit, evaluating Plaintiff’s mental health, attesting to the same in an affidavit to be presented to the probate judge) was within the scope of their official duties. (Order of Dismissal p. 8.)

1. Plaintiff has not demonstrated reversible error by the circuit court in dismissing his claims against Defendants on the basis of quasi-judicial immunity under the SCTCA.

Under the SCTCA, a governmental entity “is not liable for a loss resulting from . . . legislative, judicial, or quasi-judicial action or inaction.” § 15-78-60(1); *see also* § 15-78-60(2) (“The governmental entity is not liable for a loss resulting from . . . administrative action or inaction of a legislative, judicial, or quasi-judicial nature.”).

The circuit court correctly ruled that Defendants were entitled to quasi-judicial immunity because Pfeil and McGarty’s evaluation of Plaintiff’s mental health and recommendation to the probate court that he be involuntarily detained for further evaluation at MUSC was part of a court process. (Dismissal Order pp. 6–7.)

Nowhere does Plaintiff take issue with the general proposition that a Department clinician who evaluates a person’s mental health and recommends to the probate court that the person be involuntarily detained for further evaluation is part of a court process and covered by

quasi-judicial immunity. Plaintiff argues only that, in this particular instance, Pfeil and McGarty were not part of a court process because, according to Plaintiff, no lawful court process existed, since, according to Plaintiff, “[t]he § 44-17-410(3) process that would have made probate-court involvement lawful could not have occurred because the § 44-17-410(1) affidavit did not exist and there is no Probate Court order.” (Br. of Appellant p. 19.)²¹

Having not been challenged by Plaintiff, the circuit court’s general ruling that a Department clinician who evaluates a person’s mental health and recommends to the probate court that the person be involuntarily detained for further evaluation is part of a court process and covered by quasi-judicial immunity is the law of the case. *First Union Nat’l Bank of S.C. v. Soden*, 333 S.C. 554, 566, 511 S.E.2d 372, 378 (Ct. App. 1998) (“[An] unchallenged ruling, right or wrong, is the law of the case and requires affirmance.”); *see also First Savings Bank v. McLean*, 314 S.C. 361, 444 S.E.2d 513 (1994) (an issue which is not argued in the brief is deemed abandoned and precludes consideration on appeal).

Accordingly, Plaintiff has not demonstrated reversible error by the circuit court in dismissing his claims against Defendants on the basis of immunity under the SCTCA.

2. Plaintiff has not demonstrated reversible error by the circuit court in dismissing his claims against Defendants on the basis of discretionary immunity under the SCTCA.

Under the SCTCA, a governmental entity “is not liable for a loss resulting from . . . the exercise of discretion or judgment by the governmental entity or employee or the performance or failure to perform any act or service which is in the discretion or judgment of the governmental entity or employee.” § 15-78-60(5).

²¹ This argument is unavailing, as explained above in footnote 3. Although it should be noted that Plaintiff appears to admit that the probate judge’s involvement, and therefore Pfeil and McGarty’s actions leading up thereto, is lawful if the affidavit and order exist (as they do).

The only plausible interpretation of Plaintiff's complaint is that he disagreed with Pfeil and McGarty reached as to his mental health status, which is a conclusion that—to actually provide the intended benefit to people like Plaintiff and the public—must be entrusted to the discretionary exercise of their clinical judgment without fear or favor. The circuit court correctly ruled that Defendants were entitled to discretionary immunity because the allegations of Plaintiff's complaint show that, in evaluating Plaintiff's mental health and recommending to the probate court that he be involuntarily detained for further evaluation at MUSC, Pfeil and McGarty interviewed Plaintiff, assessed his behavior, and considered “collateral documentation”²² and necessarily weighed the merits of the competing options facing them (to recommend detention or not) based on the circumstances at hand.

Plaintiff has not demonstrated reversible error by the circuit court in dismissing his claims against Defendants on the basis of discretionary immunity under the SCTCA.

3. Plaintiff has not demonstrated reversible error by the circuit court in dismissing his claims against Pfeil and McGarty in their individual capacities.

As the circuit court correctly recognized, Plaintiff's attempt to establish personal liability against Pfeil and McGarty rests on the actual malice exception to their immunity under the SCTCA for conduct in the scope of their official duties. (Order of Dismissal p. 8.) And as the circuit court correctly found, Plaintiff has not plausibly alleged that Pfeil McGarty, whose conduct in evaluating Plaintiff's mental health and recommending his detention to MUSC for further examination the circuit court correctly found to be within the scope of their official duties, was nonetheless motivated by actual malice toward Plaintiff.

²² (Dismissal Order p. 8.)

As the circuit court observed, in considering the presence or absence of actual malice, there is a difference between personal and occupational motives. *Frazier v. Badger*, 361 S.C. 94, 103, 603 S.E.2d 587, 591 (2004) (finding assisting principal’s retaliation against subordinate employee who had rejected his unwanted sexual advances by refusing her requests for classroom maintenance and relocating her class to the basement did not further any of his employer’s legitimate interests “was a product of personal, not occupational, motives” and therefore involved actual malice). Unlike *Frazier*, Pfeil and McGarty’s motivation in examining Plaintiff’s mental health (and making a recommendation based on the same) is undeniably occupational and in furtherance of the Department’s legitimate interests in attending to someone potentially experiencing a mental health crisis. And the notion that Pfeil and McGarty were motivated by any personal animus toward Plaintiff is, as the circuit court correctly observed, wholly implausible in the absence of any allegations that had any sort of pre-existing relationship with Plaintiff or stood to gain in some way by misrepresenting his mental health status. And, of course, the undeniable truth is that, besides the fact that it was the probate judge, not Pfeil and McGarty who actually decided whether an order for Plaintiff’s detention should be issued, the only thing that Pfeil and McGarty could hope to achieve from recommending Plaintiff’s detention to MUSC was not for anything “bad” to happen to Plaintiff but only for him to receive medical attention that they believed he needed.

B. Even assuming, *arguendo*, that Plaintiff has demonstrated reversible error by the circuit court in dismissing his claims against Defendants on the basis of immunity under the SCTCA, Plaintiff's claims against Defendants are nonetheless barred by common law quasi-judicial immunity.²³

As explained above, having not been challenged by Plaintiff, the circuit court's general ruling that a Department clinician who evaluates a person's mental health and recommends to the probate court that the person be involuntarily detained for further evaluation is part of a court process and covered by quasi-judicial immunity is the law of the case. *Soden*, 333 S.C. at 566, 511 S.E.2d at 378 (“[An] unchallenged ruling, right or wrong, is the law of the case and requires affirmance.”); *see also McLean*, 314 S.C. 361, 444 S.E.2d 513 (an issue which is not argued in the brief is deemed abandoned and precludes consideration on appeal).

As also explained above, Plaintiff improperly attempts to inject into these proceedings the notion that his detention by law enforcement was unaccompanied by the statutorily required affidavit and/or order of detention and therefore occasioned by a lack of lawful court process.

²³ The circuit court's quasi-judicial immunity ruling would appear to embrace common law quasi-judicial immunity given its reliance on *Dizzley v. Bailey*, 2024-CP-22-00105, 2024 WL 4521281 at *3 (S.C. Com. Pl. May 8, 2024), which recognizes and relies on the survival of community law immunity notwithstanding the adoption of the SCTCA. While *Dizzley* expressly addresses the survival of common law judicial immunity, rather than common law quasi-judicial immunity, the principal of the survival of common law immunity is the same. That said, to the extent that the Court may not agree that circuit court's quasi-judicial immunity ruling embraces common law quasi-judicial immunity, the bar to Plaintiff's claims imposed by common law quasi-judicial immunity is nonetheless properly before this Court as an additional ground on which to sustain the circuit court's dismissal of Plaintiff's claims. *See I'On, L.L. C. v. Town of Mt. Pleasant*, 338 S.C. 406, 419, 526 S.E.2d 716, 723 (2000) (“[A] respondent—the ‘winner’ in the lower court—may raise on appeal any additional reasons the appellate court should affirm the lower court's ruling, regardless of whether those reasons have been presented to or ruled on by the lower court.”); Rule 208(b)(2), SCACR (“Respondent's brief may also contain argument asking the court to affirm for any ground appearing on the record as provided by Rule 220(c).”); Rule 220(c), SCACR (“The appellate court may affirm any ruling, order, decision or judgment upon any ground(s) appearing in the Record on Appeal.”).

Besides being independently refuted via evidence from the Charleston Police Department,²⁴ this notion is not only not alleged in Plaintiff's complaint²⁵ but also inconsistent with what is alleged therein. Albeit patently implausibly, Plaintiff's complaint alleges that the process whereby he was detained by law enforcement for further evaluation of his mental health was tainted by Pfeil and McGarty not conducting a good faith assessment of his mental health and instead misrepresenting Plaintiff to be someone needing to be detained for further examination. Thus, the wrongdoing Plaintiff alleges is framed solely in terms of Pfeil and McGarty having allegedly caused him to be wrongly detained to MUSC by communicating false information about his mental health status, not in terms of the law enforcement officer having taken him into custody without the requisite order from the probate judge or the probate judge having issued an order for his detention without the requisite affidavit from Pfeil and McGarty. And, again, in any event, even if it were true that Plaintiff was taken into custody by law enforcement in the absence of either or both of the affidavit and the order of detention, it would not give rise to or strengthen any claim by Plaintiff against Defendants, because even if the order of detention was issued without the affidavit, it was not Pfeil or McGarty who issued the order, and even if Plaintiff was taken into custody without the affidavit and/or order of detention, it was not Pfeil or McGarty who took Plaintiff into custody.

The SCTCA expressly preserves “[a]ll other,” i.e., others besides those provided under the SCTCA itself, “immunities applicable to a governmental entity, its employee, and agents” § 15-78-20(b). As the circuit court correctly recognized, it is essential that clinicians like

²⁴ (See Exs. 5 & 6 to Respondent's Return to Appellant's Mot. for Summary Reversal etc.)

²⁵ Again, as the circuit court correctly found, “Plaintiff does not allege that his detention to MUSC was done without an Order of Detention by the probate court.” (Order of Dismissal p. 3.)

Pfeil and McGarty be able “to make difficult decisions with impartiality” and “protect[ion] [of] the integrity of the mental health assessment process [requires] shielding the assessors from liability in tort when their actions are part of a court process.” (Order of Dismissal p. 7.) And it being established that Pfeil and McGarty’s mental health evaluation of Plaintiff and recommendation to the probate court that he be involuntarily detained for further examination was part of a court process, which was without question in the scope of their official duties and is the crux of Plaintiff’s claims, like guardians ad litem or prosecutors, Defendants should possess common law quasi-judicial immunity, and because such immunity is absolute (meaning it exists even in the case of actual malice, or, for that matter, even in the case of actual fraud, intent to harm, or a crime involving moral turpitude), Defendants should be protected against all of Plaintiff’s claims. See *Faile v. S.C. Dep’t of Juvenile Justice*, 350 S.C. 315, 327, 566 S.E.2d 536, 542 (2002) (“In *Fleming[v. Asbill]*, 326 S.C. 49, 483 S.E.2d 751 (1997),] this Court based the grant of immunity for court-appointed guardians on the necessity for guardians to be able to act without fear or lawsuits as well as the inequity of holding guardians liable for negligence.”); *Fleming*, 326 S.C. at 57, 483 S.E.2d at 755–56 (“Because one of the guardian’s roles is to act as a representative of the court, and because this role can only be fulfilled if the guardian is not exposed to a constant threat of lawsuits from disgruntled parties, a finding of quasi-judicial immunity is necessary. Such a grant of immunity is crucial in order for guardians to properly discharge their duties. The immunity to which guardians ad litem are entitled is an absolute quasi-judicial immunity.”) (citing *Hartline v. Clary*, 141 F. Supp. 151 (E.D.S.C. 1956) (Judicial officers, quasi-judicial officers, judges, prosecuting attorneys, executive and ministerial officials of the government are immune from civil suit for acts committed by them in the performance of their official duties.)); *Williams v. Condon*, 347 S.C. 227, 250, 553 S.E.2d 496, 509 (Ct. App.

2001) (holding that “a prosecutor in the employ of this state is [absolutely] immune from personal liability under § 1983 or the South Carolina Tort Claims Act for actions relating to the prosecution of an individual as a criminal defendant—regardless of the prosecutor’s motivation—provided the actions complained of were committed while the prosecutor was acting as an ‘advocate,’ as defined by *Imbler v. Pachtman*[, 424 U.S. 409 (1976),] and its progeny”).²⁶

Even assuming, *arguendo*, that Plaintiff has demonstrated reversible error by the circuit court in dismissing his claims against Defendants on the basis of immunity under the SCTCA, Plaintiff’s claims against Defendants are nonetheless barred by common law quasi-judicial immunity.

C. Even assuming, *arguendo*, that Plaintiff has demonstrated reversible error by the circuit court in dismissing his claims against Defendants on the basis of immunity under the SCTCA and that Plaintiff’s claims against Defendants are not barred by common law quasi-judicial immunity, Plaintiff has not demonstrated reversible error by the circuit court in dismissing his claims on bases independent of the SCTCA.

1. Plaintiff has not demonstrated reversible error by the circuit court in dismissing his claim against Defendants for false imprisonment.

The circuit court correctly determined that Plaintiff did not state a cause of action for false imprisonment. (Order of Dismissal pp. 10–11.) “False imprisonment is the deprivation of one’s liberty without justification.” *Jones by Robinson v. Winn-Dixie Greenville, Inc.*, 318 S.C. 171, 175, 456 S.E.2d 429, 432 (Ct. App. 1995). “In order to recover under a theory of false imprisonment, the complainant must establish (1) the defendant restrained him; (2) the restraint was intentional; and (3) the restraint was unlawful.” *Id.* And “[a] person confined pursuant to an authorized mental health commitment proceeding or process may not recover damages in a false

²⁶ To be clear, this goes for all Defendants, regardless of the capacity in which they

imprisonment action.” *Argoe v. Three Rivers Behav. Health, L.L.C.*, 392 S.C. 462, 473, 710 S.E.2d 67, 73 (2011). “In accordance with the general rule dealing with confinement under process, even where the order of commitment is erroneously made, but is valid on its face and issued by a court of competent jurisdiction, the detention is not false imprisonment.” *Id.*

As an initial matter, Plaintiff’s false imprisonment claim fails for lack of the first element (restraint by Defendants themselves), because the only restraint of Plaintiff was by law enforcement, not Pfeil and McGarty. Moreover, and in any event, as the circuit court correctly found, “Plaintiff [does] not allege[] that he was involuntarily detained and taken to MUSC without an Order of Detention. Instead, he claims this Order was erroneously made.” (Dismissal Order p. 10.) Even assuming the truth of Plaintiff’s allegations impugning the integrity of Pfeil and McGarty’s evaluation of his mental health, the Order of Detention pursuant to which he was taken into custody by law enforcement remains *facially* valid, so there can be no false imprisonment.

Lastly, in light of Plaintiffs’ attempt to inject into these proceedings the un-pleaded allegation that his detention by law enforcement was unaccompanied by the affidavit and/or probate judge order required by § 44-17-430,²⁷ Defendants would note that, with their return to Plaintiff’s motion for summary reversal etc., which motion the Court denied by order filed September 18, 2026, Defendant’s provided documentary proof that these documents existed at the time Plaintiff was taken into custody by law enforcement. To be clear, however, even if it were true that Plaintiff was taken into custody by law enforcement in the absence of either or both of these documents, it would not give rise to or strengthen any claim by Plaintiff against

are being sued.

Defendants, because even if it were true that the order of detention was issued without the requisite affidavit, it was not Pfeil or McGarty who issued the order, and even if it were true that Plaintiff was taken into custody in the absence of the requisite affidavit and/or order of detention, it was not Pfeil or McGarty who took Plaintiff into custody.

2. Plaintiff has not demonstrated reversible error by the circuit court in dismissing his claim against Defendants for abuse of prosecution (or, for that matter, malicious prosecution).

The circuit court correctly determined that Plaintiff did not state a cause of action for abuse of process. (Order of Dismissal pp. 11–12.) “There are two essential elements required for an abuse of process action: (1) an ulterior purpose, and (2) a willful act in the use of the process not proper in the regular conduct of the proceedings.” *Broadmoor Apartments of Charleston v. Horwitz*, 306 S.C. 482, 486, 413 S.E.2d 9, 11 (1991). “Abuse of process occurs when process, either civil or criminal, is wilfully used for a purpose not justified by the law.” 8 S.C. Jur. *False Imprisonment* § 4 (2026). “Thus,” for instance, “an action for abuse of process was permitted where the defendant store owner had the plaintiff customer arrested in an attempt to coerce the customer into paying \$10 for merchandise, priced at \$1.18, which the store owner ‘felt’ the customer had previously taken.” *Id.* (citing *Huggins v. Winn-Dixie Greenville, Inc.*, 249 S.C. 206, 153 S.E.2d 693 (1967)).

“[T]here is no liability [for abuse of process] where the defendant has done nothing more than carry out the process to its authorized conclusion, even with bad intentions.” *Cisson v. Pickens Sav. & Loan Ass’n*, 258 S.C. 37, 46, 186 S.E.2d 822, 826 (1972). “The ulterior purpose allegation must be accompanied by an allegation that the process was misused by the

²⁷ To be clear, Plaintiff’s complaint does not allege that these documents were absent from his detention on May 1, 2025. (Compl.) In other words, the way Plaintiff framed his case placed the existence of the documents beyond dispute.

undertaking of the alleged act, not for the purpose for which it was intended *but for the primary purpose of achieving a collateral aim.*” *Food Lion, Inc. v. United Food & Com. Workers Int’l Union*, 351 S.C. 65, 74, 567 S.E.2d 251, 255 (Ct. App. 2002) (emphasis added). “[I]t is the malicious misuse or perversion of the process for an end not lawfully warranted by it that constitutes the tort known as abuse of process.” *Huggins*, 249 S.C. at 209, 153 S.E.2d at 695.

In the above example involving the store owner having a customer arrested, the store owner’s use of the criminal process (having the customer arrested) as a means of coercing the customer to pay the \$10 was critical. The instant case is not analogous. Here, even assuming, *arguendo*, the bad intentions Plaintiff ascribes to Pfeil and McGarty, the allegations against them are only to the effect that they carried out the involuntary hospitalization process to its authorized conclusion: Plaintiff’s detention by law enforcement for further examination by a licensed physician, nothing more.

The circuit court addressed only a claim for abuse of process, and given that Plaintiff did not make a Rule 59(e) motion asking for a ruling on a claim of malicious prosecution, any argument on such a claim is not preserved for review. *Elam*, 361 S.C. at 23–24, 602 S.E.2d at 779–80.

3. Plaintiff has not demonstrated reversible error by the circuit court in dismissing his claim against Defendants for defamation.

The circuit court correctly determined that Plaintiff did not state a cause of action for defamation. (Order of Dismissal pp. 12–13.) Even assuming, *arguendo*, the substance of Pfeil and McGarty’s communications about Plaintiff was untrue and defamatory, the circuit court correctly determined that Plaintiff’s communications were protected by qualified privilege, which would require a showing of malice or exceeding the scope of the privilege to overcome. *See Swinton Creek Nursery v. Edisto Farm Credit*, 334 S.C. 469, 484, 514 S.E.2d 126, 134

(1999) (“[O]ne who publishes defamatory matter concerning another is not liable for the publication if (1) the matter is published upon an occasion that makes it conditionally privileged, and (2) the privilege is not abused.”). Given the occasion and the relationship of the parties, there can be no doubt that the circumstances of Pfeil and McGarty’s communications about Plaintiff were such as to give rise to the existence of a qualified privilege and therefore to give rise to a prima facie presumption against malice. *Id.* And as the circuit court correctly found, Plaintiff’s complaint does not allege facts to plausibly overcome the qualified privilege protecting Defendants.

4. Plaintiff has not demonstrated reversible error by the circuit court in dismissing his claim against Defendants for intentional infliction of emotional distress.

The circuit court correctly determined that Plaintiff did not state a cause of action for intentional infliction of emotional distress. (Order of Dismissal pp. 13–15.) As the circuit court correctly found, “[t]he bar for ‘extreme and outrageous’ conduct is exceptionally high,” and Plaintiff’s allegations simply do not measure up. (Order of Dismissal pp. 14–15 (citing *Corder v. Champion Rd. Mach, Int’l Corp.*, 283 S.C. 520, 524, 324 S.E.2d 79, 81 (Ct. App. 1984) (quoting Restatement (Second) of Torts Section 46, comment d (1977))).) Again, after all, the only thing that Pfeil and McGarty could hope to achieve from recommending Plaintiff’s detention to MUSC was not for anything “bad” to happen to Plaintiff but only for him to receive medical attention that they believed he needed.

5. Plaintiff has not demonstrated reversible error by the circuit court in dismissing his claim against Defendants for civil conspiracy.

The circuit court correctly determined that Plaintiff did not state a cause of action for civil conspiracy. (Order of Dismissal pp. 15–16.) As the circuit court correctly found, Plaintiff’s civil conspiracy claim is doomed by the intra-corporate conspiracy doctrine, because Plaintiff’s

complaint does not allege any plausible conspiracy with outside parties and, as employees and agents of the Department, Pfeil and McGarty are incapable of conspiring with themselves or the Department. (Order of Dismissal pp. 15–16 (citing *Painter’s Mill Grille, LLC v. Brown*, 716 F.3d 342, 352 (4th Cir. 2013)).)

6. Plaintiff has not demonstrated reversible error by the circuit court in dismissing his claim against Defendants for invasion of privacy: public disclosure of private facts.

The circuit court correctly determined that Plaintiff did not state a cause of action for invasion of privacy: public disclosure of private facts. (Order of Dismissal pp. 16–17.) As the circuit court correctly found, Plaintiff’s invasion of privacy: public disclosure of private facts claim fails, because the mere fact of being publicly detained by law enforcement cannot possibly suffice and Plaintiff’s complaint is otherwise lacking in plausible allegations of the requisite publicity to substantiate such a claim. (Order of Dismissal pp. 16–17 (citing *Rycroft v. Gaddy*, 281 S.C. 119, 124, 314 S.E.2d 39, 43 (Ct. App. 1984)).)

CONCLUSION

For the foregoing reasons, together with, pursuant to Rules 208(b)(2) and 220(c), SCACR, any other or further reasons appearing on the record, to include, without limitation, all the reasons set forth by the circuit court in its order of dismissal, which are incorporated herein by reference, the circuit court’s dismissal of Plaintiff’s claims with prejudice should be affirmed. Alternatively, out of an abundance of caution, assuming, *arguendo*, the Court is not inclined to affirm such dismissal in its entirety, it should be affirmed to the greatest extent possible (e.g., if the Court is inclined to affirm the dismissal as to some but not all of Plaintiff’s claims, it should be affirmed as to those claims on which the Court is inclined to affirm).

<SIGNED ON THE FOLLOWING PAGE>

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