

STATE OF SOUTH CAROLINA
COUNTY OF KERSHAW

IN THE COURT OF COMMON PLEAS
C/A No.: 2024-CP-28-00821

Mark Roote,

Plaintiff,

v.

Kershaw County; Kershaw County
Sheriff's Office; Sheriff Lee Boan,
individually and in his official capacity as
Kershaw County Sheriff; and Danny
Templar

Defendants.

**ORDER DENYING PLAINTIFF'S
MOTION TO AMEND COMPLAINT
AND
GRANTING DEFENDANTS'
MOTION FOR SUMMARY
JUDGMENT**

(CASE ENDED)

Oct 29 2026

SC Court of Appeals

This matter came before the Court for a hearing on Plaintiff's second Motion to Amend the Complaint and Defendants' Motion for Summary Judgment. After reviewing the documents submitted by the parties and hearing arguments, the Court grants Defendants' Motion for Summary Judgment and denies the Motion to Amend the Complaint as more fully set forth below.

CASE SUMMARY

On October 10, 2024, Plaintiff, through his then retained counsel, filed a Summons and Complaint in the Court of Common Pleas for Kershaw County. The case was timely removed to federal court and Defendants filed and served their Answer on April 4, 2025.

The Complaint contained a total of ten (10) causes of action as follows: First Cause of Action – State Law Claim for False Imprisonment against the Kershaw County Sheriff's Office (hereinafter "KCSO"); Second Cause of Action – State Law Claim for False Imprisonment against the Kershaw County (hereinafter "County"); Third Cause of Action – State Law Claim for Negligence and Gross Negligence against the KCSO; Fourth Cause of Action – State Law Claim for Negligence and Gross Negligence against Kershaw County; Fifth Cause of Action – State Law

**ATTEST True, Correct & Certified
copy of original on file in this Court**
[Signature]
Clerk of Court, Kershaw County

Claim for Battery Against KCSO; Sixth Cause of Action – 42 U.S.C. § 1983 Violation for Excessive Force Against Sheriff Lee Boan; Seventh Cause of Action – 42 U.S.C. § 1983 First Amendment Violation Against Sheriff Lee Boan and County Administrator Danny Templar; Eighth Cause of Action – 42 U.S.C. § 1983 First Amendment Violation Against Danny Templar; Ninth Cause of Action - 42 U.S.C. § 1983 First Amendment Violation Against County; Tenth Cause of Action – 42 U.S.C. § 1983 First Amendment Violation Against County.

Discovery was completed and on November 17, 2025, Defendants filed and served their Motion for Summary Judgment. After full briefing by both parties, the federal court issued its final Order granting Defendants' motion as to the federal claims, and declining supplemental jurisdiction over the remaining state claims which were remanded to this Court.

Plaintiff's counsel was subsequently relieved, and Plaintiff, pro se, appealed the federal court's Order to the Court of Appeals for the Fourth Circuit.

On July 21, 2026, the Fourth Circuit issued an unpublished opinion affirming the district court's Order. On July 22, 2026, Plaintiff filed a Petition for Rehearing and Rehearing En Banc, were denied. Plaintiff has filed a petition seeking a Writ of Certiorari to the United States Supreme Court, which is pending.

This case was reopened on March 5, 2026, with the filing of the Order remanding the state law causes of action.

On April 14, 2026, Plaintiff filed and served a Summons and Complaint against the above captioned defendants and Ben Connell in his individual and official capacities. *Mark Roote v. Kershaw County et al.*, Civil Action No. 2026-CP-28-00408 (hereinafter "Roote (2)"). The suit alleges causes of action as follows: County I – First Amendment Retaliation (42 U.S.C. § 1983); Count II – Viewpoint Discrimination (42 U.S.C. § 1983); Count III – Ongoing First Amendment

Violation (42 U.S.C. § 1983); Count IV – Monell Liability (42 U.S.C. § 1983); and Count V – Abuse of Process (South Carolina State Law).

A Notice of Removal was filed on May 14, 2026, and on May 21, 2026, a Pre-Answer Motion for Summary Judgement was filed, which is pending before the federal court.

Also on April 14, 2026, Plaintiff filed and served a Summons and Complaint against the above-captioned defendants. *Mark Roote v. Kershaw County et al.*, Civil Action No. 2026-CP-28-00409 (hereinafter “Roote (3)”). The suit alleges the following causes of action: Count I – Malicious Prosecution (South Carolina State Law); Count II – First Amendment Retaliatory Prosecution (42 U.S.C. § 1983); Count III – Abuse of Process (South Carolina State Law); Count IV – Excessive Force (42 U.S.C. § 1983); Deliberate Indifference to Medical Needs (42 U.S.C. § 1983); and Count V - Monell Liability (42 U.S.C. § 1983).

A Notice of Removal was filed on May 14, 2026, and on May 21, 2026, a Pre-Answer Motion for Summary Judgement was filed, which is pending before the federal court.

On April 21, 2026, Plaintiff filed a notice that he was appearing pro se in the above captioned case. At the time of remand, this case had the remaining state court causes of action: First Cause of Action – State Law Claim for False Imprisonment against the Kershaw County Sheriff’s Office (hereinafter “KCSO”); Second Cause of Action – State Law Claim for False Imprisonment against the Kershaw County (hereinafter “County”); Third Cause of Action – State Law Claim for Negligence and Gross Negligence against the KCSO; Fourth Cause of Action – State Law Claim for Negligence and Gross Negligence against Kershaw County; and Fifth Cause of Action – State Law Claim for Battery Against KCSO.

On May 5, 2026, Plaintiff filed a Motion for Leave to Amend his Complaint. which was granted on July 29, 2026. The Amended Complaint was prematurely filed on July 27, 2026, prior to the filed Order. The Amended Complaint asserts the following causes of action: Count I –False

Imprisonment against the KCSO and Sheriff Lee Boan; Count II—False Imprisonment against the County; Count III - Negligence and Gross Negligence against the KCSO and Sheriff Lee Boan; Count IV –Negligence and Gross Negligence against the County; and Fifth Cause of Action – Battery Against KCSO and Sheriff Lee Boan; Count VI – Abuse of Process Against Sheriff Lee Boan and the County; Count VII – Intentional Infliction of Emotional Distress Against All Defendants.

Defendants filed and timely served their Motion for Summary Judgment prior to filing their Answer to the Amended Complaint.

On or about August 10, 2026, Plaintiff filed a motion seeking leave to file a Second Amended Complaint adding as defendants Julian Burns (former County Council chairperson) and Kenneth DuBose (county attorney).

STANDARD OF REVIEW

Summary Judgment is warranted only if there is no genuine issue as to any material fact and the moving party is entitled to a judgment as a matter of law. Rule 56(c), SCRPC. “In determining whether any triable issues of fact exist, the evidence and all inferences which can be reasonably drawn from the evidence must be viewed in the light most favorable to the non-moving party.” *Bloom v. Ravoir*, 339 S.C. 417, 529 S.E.2d 710 (2000). The moving party has the initial burden of demonstrating the absence of a genuine issue of material fact. However, once the party moving for summary judgment meets the initial burden of showing an absence of evidentiary support for the opponent’s case, the opponent must come forward with specific facts showing there is a genuine issue for trial. *Garvin v. Bi-Lo, Inc.*, 337 S.C. 436, 523 S.E.2d 481 (Ct. App. 1999). The opponent cannot merely rely upon the pleadings but must submit some additional evidence creating a genuine issue of material fact.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This case involves an incident that occurred on October 11, 2022, when Plaintiff Mark Plaintiff attended a Kershaw County council meeting, which was also attended by the County Sheriff, Lee Boan and the County Administrator, Danny Templar. The facts of this case are largely not be in dispute as the council meeting was recorded and is a matter of public record on YouTube, in addition to security cameras that recorded the meeting from multiple angles without sound, in addition to a private recording taken by an individual sitting in the gallery of the council chambers. The videos were provided as exhibits to Defendants' motion.

The County has passed and filed Ordinance No. 387.2023, which is the Amended and Restated Ordinance by Kershaw County Council Determining Rules and Order of Business. The following provisions of the Ordinance are relevant to the issue before the Court:

- Section 2.5(a) of the Ordinance provides the Order of Business for the agenda of council meeting. The agenda provides for public comments as the sixth matter on each agenda. [Ex. 8, p. 2];
- Section 2.5(d) provides rules of conduct for public comment and rules for conduct of public hearings may be established by County council and altered or amended by a single vote. [Ex. 8, p. 3];
- Appendix I provides guidelines for public hearings including the following:
 - Any person wishing to speak at a public hearing must sign up to speak prior to the hearing; [Ex. 8, p. 11]
 - When the public hearing is opened, persons are notified how many people have signed up to speak; [*Id.*]
 - While each person is limited to a maximum of 10 minutes to speak, that time limit can be altered or amended by a single vote of County council. [*Id.*].
- Appendix III provides guidelines for public comments including the following:

- The public comment period is limited to a maximum of five minutes per individual. [Ex. 8, p. 11].

In implementing the public comment period, County council decided that the maximum period of time for all comments would be thirty minutes per public hearing. [Exhibit 9 – Templar Depo, p. 10, lines 4-p. 11, line 18]. The total amount of time is then divided by the total number of individuals who signed up in advance to speak at the public hearing. [*Id.*]. If three people sign up to speak, each would be given ten minutes of time. If ten people sign up to speak then each person would be given three minutes to speak. [*Id.*].

In the present case, the public comments portion of the agenda began at the thirty-nine minute and thirty-second (0:39:30) part of Exhibit 1.¹ The chair announced the agenda item was public comments and then yielded to the County Attorney, Ken Dubose. For reference, Mr. DuBose is seated on the right-hand side of the table as you are looking at County Council, and County Administrator Danny Templar is seated on the right side of the table.

Mr. DuBose announced that nine (9) people signed up to speak. Mr. DuBose further announced per the rules governing public comments as approved by council, the maximum time for comment was five minutes per speaker or a total of thirty minutes per session. Since there were nine people who signed up to speak, Mr. DuBose stated that each speaker would have approximately three minutes and twenty seconds to speak. Mr. DuBose then announced that he had a bell and was instructed to ring the bell when a person reached the three minute and twenty second mark so the person would know their time to speak has ended. [Ex. 1, 0:39:37].

The chair then read the rules regarding public comments. [Ex. 1, 0:40:12]. The chair asked Mr. DuBose to start the thirty-minute time period for public comment and to announce the names

¹ Going forward, references to any video will be to the 0:00:00 format for hour:minute:second of the recording.

of each person who signed up to speak. [Ex. 1, 0:42:10]. A summary of the times of each of the first seven speakers is set forth as follows:²

- Speaker 1 started at 0:42:21 and stopped at 0:44:07 for a total time of 0:01:46;
- Speaker 2 started at 0:44:15 and Mr. DuBose rang the bell at the 0:48:09 mark after he spoke for 0:03:54. Speaker 2 stopped at 0:48:48 for a total time of 0:04:32;
- Speaker 3 started at 0:49:21 and stopped at 0:52:21 for a total time of 0:03:00;
- Speaker 4 started at 0:52:40 and stopped at 0:56:26 for a total time of 0:03:45;
- Speaker 5 started at 0:56:44 and Mr. Dubose rang the bell at the 1:00:51 mark after she spoke for 0:04:07. Speaker 2 stopped at 1:00:51 for a total time of 0:04:13;
- Speaker 6 started at 1:01:15 and stopped at 1:05:19 for a total time of 0:04:04;
- Speaker 7 started at 1:05:32 and stopped at 1:08:51 for a total time of 0:3:19:00.

[Ex. 1].

Plaintiff was the eighth speaker and took the podium at 1:09:03. After a short introduction, Plaintiff looked to Mr. DuBose and stated “Don’t bother touching that bell.” [Ex. 1, 01:09:10]. Plaintiff then gave an uninterrupted prepared speech until Mr. DuBose rang the bell at 1:13:04, which was four minutes into his speech. Plaintiff did not stop or acknowledge the bell and continued to read his prepared speech uninterrupted until 1:13:19 when council member Cook interrupted and asked the chair that either the chair should enforce the bell and time limit or let the other people who had to stop after the bell to get back up and finish what they had to say. In response, the chair stated that he thought Plaintiff had a few more seconds and was waiting for Mr. DuBose, when Plaintiff stated, “I’m not stopping until I’m done.” [Ex. 1, 1:39:37]. The chair replied, “yes you are,” and Plaintiff stated, “No I’m not.” At that point, the chair asked Plaintiff to

² Plaintiff was the eighth speaker that evening.

remove himself from the podium and asked that the podium microphone be turned off as Plaintiff then continued to read his prepared speech.

Plaintiff continued reading his prepared speech and the chair asked that Plaintiff be removed at which time Sheriff Boan is seen approaching Plaintiff from the left of the screen with his hands in his pockets. [Ex. 1, 1:13:55]. On the personal cell phone video, Exhibit 2, as Sheriff Boan is approaching Plaintiff, Plaintiff turns his head to the left to look at Sheriff Boan and states in a commanding voice, "I am not walking away." [Ex. 2, 0:04:53]. Sheriff Boan stands next to the podium, with his hands in his pockets, and continues to let Plaintiff read his prepared speech. A second deputy sheriff approaches Plaintiff from the right side and stands watching Plaintiff continue to read his speech.

Since the chair had the microphones turned off, Exhibit 2 provided audio of Plaintiff continuing to read his speech.

As evidenced by Exhibits 3 and 4, both show Plaintiff's complete disregard for the established rules and the chair's request that he step aside from the podium is causing a breakdown in the hearing. The council members are seen talking to each other. The videos show those citizens in attendance looking around, talking to each other, and getting up and moving around the room. [Ex. 3 and Ex. 4, 0:05:12]. On the personal cell phone video, by the 0:5:44 mark, the noise of the other citizens having personal conversations is noticeable. [Ex. 2, 0:5:44]. Yet, Plaintiff was allowed to continue to read his prepared speech.

By the 0:6:25 mark on Exhibit 2, it is clear from the noise in the gallery that the public hearing had broken down. At or about this point, County Administrator Templar stands up from the table and says to Sheriff Boan, I want him out..." Plaintiff spoke at the podium for 0:06:28

before any attempt to remove him occurred.³ Plaintiff then tells County Administrator Templar that he has not broken any laws, to which Mr. Templar stated, “I didn’t say that you did, but we’re trying to run a meeting here.” Sheriff Boan then puts his hand on Plaintiff’s left arm and attempts to guide him away from the podium at which time Plaintiff flops to the floor in “passive resistance.” [Ex. 1, 1:15:32; Ex. 2, 0:06:29; Ex. 4, 0:06:29; Exhibit 11 – Plaintiff Depo, p. 63, lines 8-19].

After Plaintiff flopped to the floor, Sheriff Boan and another deputy attempted to slide Plaintiff across the carpeted floor by the arms out of the council chambers and Plaintiff refused to cooperate. As they were almost to the exit of the room, Plaintiff yelled he was “trying to be a good citizen and show how dirty these fuckers are” at which time Sheriff Boan advised Plaintiff that he was now under arrest. The deputy sheriff almost contemporaneously with Sheriff Boan’s statement lost his balance and fell. Sheriff Boan then commanded Plaintiff several times to put his hand behind his back, which Plaintiff refused stating he was a disabled veteran. Plaintiff is then slid on the floor out of the chambers into the lobby, handcuffed, walked out of the building and taken to the Kershaw County detention center. [Ex. 2, 0:06:42; Ex. 5, 0:00:08; Ex. 6, 0:00:08; Ex. 7, 0:00:08].

Plaintiff was charged with resisting arrest and disorderly conduct. [Exhibit 12 - Charges]. The charges have since been resolved.

I. Plaintiff’s Motion to Amend the Complaint seeks to add parties after the expiration of the applicable statute of limitations which renders the motion futile and it is denied.

On August 10, 2026, Plaintiff filed a second Motion for Leave to Amend his Complaint. The motion seeks to add Julian Burns, former chairman of the Kershaw County Counsel, and

³ A copy of Plaintiff’s prepared speech was produced during discovery and attached as Exhibit 10. As shown by the highlight section on page 2, this is Plaintiff’s last words prior to his removal. Plaintiff had a significant portion of the speech yet to be read.

Kenneth DuBose, county attorney as defendants to the action. The motion alleges their acts or omissions on October 11, 2022, give rise to causes of action against them.

Rule 15(c), SCRCF, provides the following:

An amendment changing the party against whom a claim is asserted relates back if the foregoing provision is satisfied and, within the period provided by law for commencing the action against him the party to be brought in by amendment (1) has received such notice of the institution of the action that he will not be prejudiced in maintaining his defense on the merits, and (2) knew or should have known that, but for a mistake concerning the identity of the proper party, the action would have been brought against him.

The S.C. Court of Appeals has already determined that “[t]he language of Rule 15(c) clearly speaks to a *change* in party, not the *addition* of a defendant to an already existing defendant. In our view, the addition of a party is not the same as a substitution or change of party.” *Jackson v. John Doe*, 342 S.C. 552, 558, 537 S.E.2d 567, 570 (Ct. App. 2000).

Neither the Complaint nor the First Amended Complaint contained a John Doe or other placeholder defendant for any unknown defendants. Plaintiff’s motion does not seek to change an existing party or correct the identity of an already existing party but seeks to add two new parties to this case.

As the allegations that purportedly give rise to the naming of the two new parties took place in October 2022, the two-year statute of limitations set forth in the S.C. Tort Claims Act or three-year statute of limitations for a federal 42 U.S.C. § 1983 claim have expired. Therefore, the motion to amend is futile and the motion is denied as the claims are time-barred.

II. Defendants are entitled to judgement as a matter of law on the abuse of process and malicious prosecution claims.

Rule 12(b)(8), SCRCF, provides that a cause of action may be dismissed if “another action is pending between the same parties for the same claim.”

In the present case, the claims for abuse of process and malicious prosecution were not in the original Complaint and were added in the Amended Complaint filed on July 27, 2026. However, Plaintiff has asserted the same abuse of process claim against the same defendants in both Roote (2) and Roote (3), and the same malicious prosecution claim in Roote (3), which were filed on April 14, 2026, more than three months prior to the filing of the Amended Complaint in this case.

Therefore, the abuse of process and malicious prosecution are dismissed with prejudice from the present case pursuant to Rule 12(b)(8), SCRCP.

III. Defendants Sheriff Lee Boan and County Administrator Danny Templar are entitled to judgement as a matter of law in their favor pursuant to the South Carolina Tort Claims Act.

While the original Complaint properly asserted the state law claims against the governmental entities, Plaintiff's pro se Amended Complaint has asserted the state law claims against both the governmental entities and their respective employees in violation of the S.C. Tort Claims Act (hereinafter "the Act").

S.C. Code § 15-78-70 provides that any action against a governmental employee shall name as a party defendant only the agency or political subdivision for which the employee was acting. It is undisputed that Lee Boan at all times relevant was the Sheriff of Kershaw County and the head of the KCSO. It is also undisputed that at all times relevant Danny Templar was employed by the County as the County Administrator. Finally, no affirmative defenses have ever been asserted that either individual was acting outside the course and scope of their employment with their respective governmental positions.

Based on S.C. Code § 15-78-70, Sheriff Lee Boan and County Administrator Danny Templar are granted judgment as a matter of law in their favor on the following causes of action: Count I –False Imprisonment against Sheriff Lee Boan; Count III - Negligence and Gross

Negligence against the Sheriff Lee Boan; Count IV –and Fifth Cause of Action –Sheriff Lee Boan; Count VI – Abuse of Process Against Sheriff Lee Boan; and Count VII – Intentional Infliction of Emotional Distress.

IV. Defendants are entitled to dismissal of the intentional infliction of emotional distress claim pursuant to the S.C. Tort Claims Act.

S.C. Code. § 15-78-30 defines “‘Loss’ as bodily injury . . . or damage to tangible property, including lost wages and economic loss to the person who suffered the injury, disease, or death, pain and suffering, mental anguish, and any other element of actual damages recoverable in actions for negligence, *but does not include the intentional infliction of emotional harm.*” (emphasis added).

Defendants are entitled to judgment as a matter of law in their favor as a claim for intentional infliction of emotional distress is not available against a governmental entity because the Act—which is the exclusive remedy for torts committed by an employee of a governmental entity—specifically defines “loss” for which recovery is available as excluding “the intentional infliction of emotional harm.” *Id.*

V. Defendants County and KSCO are entitled to judgment as a matter of law in their favor on the claims for false imprisonment and battery.

To prevail on a claim for false imprisonment, the plaintiff must establish: (1) the defendant restrained the plaintiff, (2) the restraint was intentional, and (3) the restraint was unlawful. *Law v. S.C. Dep’t of Corr.*, 368 S.C. 424, 440-41, 629 S.E.2d 642, 651 (2006). However, “[a]n action for false imprisonment cannot be maintained where one is arrested by lawful authority.” *Jones v. Columbia*, 301 S.C. 62, 64, 389 S.E.2d 662, 663 (1990). The fundamental issue in determining the lawfulness of an arrest is whether there was probable cause to make the arrest. *Law*, 368 S.C. at 441, 629 S.E.2d at 651. “Probable cause is defined as a good faith belief that a person is guilty of a crime when this belief rests on such grounds as would induce an ordinarily prudent and cautious

man, under the circumstances, to believe likewise.” *Id.* While the question of whether probable cause exists is ordinarily a jury question, it may be decided as a matter of law when the evidence yields but one conclusion. *Id.*

In the present case, the County had the legal authority to have Plaintiff removed from the public hearing to restore the order that Plaintiff disrupted with his refusal to yield the podium when his allotted time to speak expired by more than two minutes. *Steinburg*, 527 F.3d at 384 (adopting the principle that the “disruption of the orderly conduct of public meetings is indeed one of the ‘substantive evils that [government] has a right to prevent’ when limiting speech in limited public forums).

First, as evidenced by the videos, neither Sheriff Boan nor County Administrator Templar wanted or intended to arrest Plaintiff, but simply wanted to remove him from the podium to restore order to the public hearing. Specifically, when Sheriff Boan is asked to remove Plaintiff, Plaintiff tells County Administrator Templar that he has not broken any laws, to which Mr. Templar stated, “I didn’t say that you did, but we’re trying to run a meeting here.” [Ex. 2, 0:06:29]. Sheriff Boan did not inform Plaintiff that he was under arrest until he shouted at County Council that he was trying to show how corrupt “those fuckers are” after having been slid on the ground from the podium to the exit. [Ex. 2, 0:06:48].

Both Sheriff Boan and County Administrator Templar testified that neither had any intention of having Plaintiff arrested, but that Plaintiff’s defiance in refusing to yield the podium and then dropping to the ground and refusing to move caused the public hearing to break down further. [Exhibit 13 - Sheriff Boan Depo p. 11, line 7-p. 12, line 25; Ex. 9, p. 13, line 2-p. 15, line 2].

Plaintiff was not limited in any way in the content of his prepared speech. Plaintiff was not interrupted when Mr. DuBose rang the bell when Plaintiff’s speech reached four minutes.

Plaintiff was interrupted indirectly after speaking for four minutes and fifteen seconds when a council member raised an issue about the length of time Plaintiff was being given to the council chair. Even when the microphone was turned off, Plaintiff continued to speak at the podium for six minutes and thirty-eight seconds before County Administrator Templar asked Sheriff Boan to remove Plaintiff from the podium. Plaintiff's removal, subsequent arrest, and criminal charges had nothing to do with the content of his speech, but related directly to Plaintiff's complete disregard for the legitimate and legal rules for the public hearing and his decision to put his personal rights over those of the other citizens who had equal rights to participate and watch the public hearing, by creating a public disturbance causing the council meeting to stop completely until the issue was resolved.

Finally, from the indisputable evidence set forth in the videos, County Administrator Templar was well within his right to have Plaintiff removed from the podium and public hearing and, therefore, Sheriff Boan was equally within his legal authority to physically remove Plaintiff from the public hearing. *Eichenlaub v. Twp. of Ind.*, 385 F.3d 274, 281 (3d Cir. 2004) (affirming summary judgment finding "the presiding officer of a public meeting to allow a speaker to try to hijack the proceedings, or to filibuster them, would impinge on the First Amendment rights of other would-be participants." Further finding the court had "*no difficulty sustaining the decision to remove [plaintiff] on that basis*") (emphasis added). When Plaintiff not only refused to leave, but then flopped to the ground in passive resistance, Sheriff Boan was within authority to place Plaintiff under arrest and charge him accordingly for creating a public disturbance as more fully discussed below.

As detailed above, Sheriff Boan and another deputy were sliding Plaintiff towards the exit after he intentionally flopped to the ground in "passive resistance," when Plaintiff yelled he was "trying to be a good citizen and show how dirty these fuckers are" at which time Sheriff Boan

advised Plaintiff that he was now under arrest. Plaintiff's statement about "how dirty these fuckers are" was directed at the council members. Once Sheriff Boan notified Plaintiff he was under arrest, Plaintiff continued his passive resistance and refused to comply with the lawful order to place his hands behind his back. Plaintiff was charged with public disorderly conduct (S.C. Code § 16-17-530) and resisting arrest (S.C. Code § 16-9-320). [Ex. 13].

South Carolina's public disorderly conduct statute provides in part that a person who conducts himself in a disorderly or boisterous manner or uses obscene or profane language at any public place or gathering is guilty of a misdemeanor. S.C. Code § 16-17-530. The video clearly shows Plaintiff's conduct in public after being removed from the podium was disorderly and then became boisterous when he used obscene or profane language directed at council. Accordingly, as a matter of law there was probable cause to support his arrest and charge of public disorderly conduct.

South Carolina law further provides it is unlawful for a person to resist an arrest being made by one whom the person knows or reasonably should know is a law enforcement officer. S.C. Code § 16-9-320. It is evident from the videos that Plaintiff resisted being handcuffed after Sheriff Boan clearly informed him that he was under arrest. There can be no doubt that Plaintiff knew he was being placed under arrest by a law enforcement officer. Accordingly, as a matter of law there was probable cause to support his charge with resisting arrest.

Finally, the probable cause affidavit completed by Sheriff Boan set forth the facts upon which Plaintiff's arrest and charges were based. [Ex. 12, p. 3]. Plaintiff admitted that each statement set forth by Sheriff Boan in the probable cause affidavit was correct. [Ex. 11, p. 65, line 23-p. 69, line 16].

As there was probable cause for Plaintiff's arrest and charges, the County and KSCO are entitled to judgement as a matter of law in their favor on the false imprisonment claim. *Jones*, 301

S.C. at 64, 389 S.E.2d at 663 (stating “[a]n action for false imprisonment cannot be maintained where one is arrested by lawful authority.”).

Under South Carolina law, “a battery is the actual infliction of any unlawful, unauthorized violence on the person of another, irrespective of degree.” *Jones v. Winn-Dixie Greenville*, 318 S.C. 171, 175, 456 S.E.2d 429, 432 (Ct. App. 1995). However, A police officer who uses reasonable force in effectuating a lawful arrest is not liable for assault or battery. *Horton v. City of Columbia*, 408 S.C. 27, 37, 757 S.E.2d 537, 542 (Ct. App. 2014) (concluding that because arrest was lawful, the plaintiff’s claim for assault and battery failed as a matter of law and summary judgment was appropriate.).

As there was probable cause for Plaintiff’s arrest and charges, KSCO and the County are entitled to judgement as a matter of law in their favor on the battery claim. *Id.*

VI. Defendant KSCO is entitled to judgment as a matter of law in their favor on the claim for the alleged negligence/gross negligence for excessive use of force.

The Complaint alleges Sheriff Boan used excessive force against Plaintiff by forcefully arresting him. [ECF 1-1, ¶ 51]. The Complaint also alleges the KSCO failed to exercise slight care in arresting Plaintiff and ensuring he was not hurt during the process. [ECF 1-1, ¶42].

All claims that law enforcement officers have used excessive force in the course of an arrest, investigatory stop, or other “seizure” of citizen is analyzed under the Fourth Amendment and its “reasonableness” standard. *Graham v. Connor*, 490 U.S. 386, 395 (1989).

The constitutional inquiry is whether the officers’ actions are objectively reasonable in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation. *Id.* at 397. The Court must evaluate the reasonableness of an officer’s use of force under the totality of the circumstances, including but not limited to the severity of the crime

at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight. *Id.*

As addressed in more detail above, County Administrator Templar was well within his right to have Plaintiff removed from the podium and public hearing for Plaintiff's willful refusal to step aside from podium after he exceeded the allotted to speak by over two minutes. *Twp. of Ind.*, 385 F.3d 281 (affirming summary judgment finding "the presiding officer of a public meeting to allow a speaker to try to hijack the proceedings, or to filibuster them, would impinge on the First Amendment rights of other would-be participants." Further finding the court had "*no difficulty sustaining the decision to remove [plaintiff] on that basis*") (emphasis added). Accordingly, Sheriff Boan was well within his legal authority to remove Plaintiff from the council chamber based on the request as well as Plaintiff's clearly disruptive behavior at the meeting.

If Plaintiff had simply complied with prior requests to stop speaking and step aside, there would have been no need to use force to remove him from the chamber. Moreover, when Plaintiff intentionally flopped to the floor in passive resistance to the lawful request, Sheriff Boan had no other option but to use force to remove Plaintiff from the chamber.

Regardless, the only force used was Sheriff Boan and another deputy pulling Plaintiff's arms and shoulder area, sliding him on the carpeted floor toward the exit. The video clearly shows Sheriff Boan did not use any "loosening techniques," such as arm or neck locks, choke holds, or other grappling measures.

Even after Sheriff Boan informed Plaintiff that he was under arrest and commanded Plaintiff to place his arms behind his back to be handcuffed to which Plaintiff refused to comply on several occasions, Sheriff Boan did not use any excessive force or attempt to force Plaintiff's arms behind his back. In fact, after Plaintiff refused to comply with lawful orders after being informed he was under arrest, Sheriff Boan took additional steps to slide Plaintiff out of the

chamber with the assistance of another deputy. The lobby camera shows Plaintiff being slid into the lobby, placed on his stomach, and handcuffed at which time he was stood up and escorted to a police cruiser to be transported to the Kershaw County Detention Center. [Ex. 5 and Ex. 6, 0:00:09].

Sheriff Boan's use of force was objectively reasonable under the totality of the circumstances, including but not limited to the severity of the crime at issue, whether the suspect posed an immediate threat to the safety of the officers or others, and whether he was actively resisting arrest or attempting to evade arrest by flight. *Id.* Plaintiff was actively creating a disturbance, he shut down the council meeting, and he was lawfully removed based on his actions as discussed above. Plaintiff was actively resisting his removal, and when informed of his arrest, he actively resisted being handcuffed subject to his arrest. Sheriff Boan used a reasonable amount of force to remove Plaintiff from the chamber, which was to slide Plaintiff on the ground by his arms and shoulder area.

As the evidence demonstrates as a matter of law that Sheriff Boan's use of force was objectively reasonable under the Fourth Amendment, Plaintiff's state common law claim against the KCSO for failure to exercise slight care during the arrest to prevent harm also fails as a matter of law. *See Doe v. Greenville Cty. Sch. Dist.*, 375 S.C. 63, 71, 651 S.E.2d 305, 309 (2007) (Gross negligence is defined as the failure to exercise slight care). Therefore, the KCSO is entitled to judgment as a matter of law in its favor on the gross negligence claim related to the amount of force used during the arrest.

Finally, the federal court's Order addressing Plaintiff's constitutional excessive use of force claim made the following factual findings, which were affirmed on appeal:

The court finds that Boan's use of force was not excessive. Although the severity of the alleged crime was low and Plaintiff was nonviolent, he refused multiple directives, disrupted the meeting, and physically resisted removal. [ECF No. 14-2

at 4:30–4:45.] Even assuming a shoulder injury during his removal from the council’s chambers, the court finds Boan applied the minimal degree of force reasonably necessary to overcome Plaintiff’s resistance. Accordingly, summary judgment is appropriate for this claim. *See Pegg v. Herrnberger*, 845 F.3d 112, 120 (4th Cir. 2017) (finding the arrest of a resisting suspect that causes only *de minimis* injuries is not excessive force).

[Exhibit 16 – District Court Order].

“Under the doctrine of collateral estoppel, when an issue of fact or law is actually litigated and determined by a valid and final judgment, and the determination is essential to the judgment, the determination is conclusive in a subsequent action between the parties, whether on the same or a different claim.” *Pye v. Aycock*, 325 S.C. 426, 436, 480 S.E.2d 455, 460 (Ct. App. 1997).

As the federal court has concluded that the force used against Plaintiff was not excessive in issuing its judgment granting Defendants summary judgment in the federal case, which has been affirmed on appeal, the finding is binding on the parties and the doctrine of collateral estoppel prohibits relitigating that factual issue before this Court. Therefore, Defendant KSCSO is entitled to judgment as a matter of law in its favor on the excessive force claim.

VII. Defendant County is entitled to judgment as a matter of law in its favor on the claim for gross negligence related to medical care.

Under the S.C. Tort Claims Act, 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.” *Bass v. S.C. Dep’t of Soc. Servs.*, 414 S.C. 558, 571, 780 S.E.2d 252, 258 (2015) citing S.C. Code § 15-78-60(25). Gross negligence is defined as the failure to exercise slight care. *Doe*, 375 S.C. at 71, 651 S.E.2d at 309.

Attached as Exhibit 15 were selected documents from Plaintiff’s intake processing at the Kershaw County Detention Center. As evidenced by the documents, an Intake Assessment Form

was completed, which in part stated that the arresting officer was not aware of any medical condition or injury sustained by Plaintiff that required immediate medical attention. [Ex. 14 p. 2, No. 7]. Additionally, the detention center completed a medical history. [Ex. 14 p. 3]. A complete copy of body cam video of Plaintiff's transport and booking at the detention center was attached as Exhibit 15.

Finally, the Kershaw County Detention Center is operated and staffed by the KCSO, which is a separate and distinct governmental entity from the municipality of Kershaw County. *See Cromer v. Brown*, 88 F.3d 1315, 1332 (4th Cir. 1996) (concluding a sheriff or sheriff's office is state officer versus a municipality or government subdivision such as a county); *see also Williams v. Charleston Cty. Sheriff's Office*, No. 24-1238, 2026 U.S. App. LEXIS 20745, at *4 (4th Cir. July 15, 2026) (affirming that a county sheriff's office is an arm of the state and not a municipality). Accordingly, the County cannot be liable for the acts or omissions of a separate and distinct state agency such as the KSCO.

Therefore, Defendant County is entitled to judgment as a matter of law in its favor on the claim for the denial of medical care.

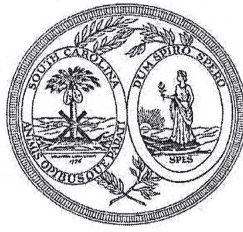
CONCLUSION

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Plaintiff's Motion to Amend the Complaint is DENIED.

IT IS FURTHER ORDERED that Defendants' Motion for Summary Judgment is GRANTED.

IT IS SO ORDERED.

SIGNATURE ON NEXT PAGE



Kershaw Common Pleas

Case Caption: Mark Roote VS Kershaw County , defendant, et al
Case Number: 2024CP2800821
Type: Order/Summary Judgment

s/R. Scott Sprouse, Judge #2752

Tenth Judicial Circuit

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