STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Charleston County
Court of Common Pleas
Deadra L. Jefferson, Circuit Court Judge

Case No. 2013-CP-10-3891
Appellate Case No. 2016-002526

Linda Beth Weddle,

Respondent,

v.

Charleston County Sheriff's Office,

Appellant.

FINAL BRIEF OF RESPONDENT

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Proof of Proximate Cause – Can be Shown by Lay Testimony

II. Did the Trial Court err in allowing testimony of $52,192.72 in medical expenses where the Plaintiff Detainee failed to present any medical expert testimony to establish a causal link between the medical treatment and the actions of the Detention Officer in lifting her up off the floor?

III. Did the Trial Court err in denying the Defendant Sherriff's Office motion for a directed verdict where the Plaintiff Detainee failed to meet her burden of presenting any medical testimony that the $52,192.72 in medical expenses were proximately related to the alleged gross negligence?

STATEMENT OF THE CASE

Respondent Linda Beth Weddle brought this action pursuant to the South Carolina Tort Claims Act, S.C. Code Ann. § 15-78-10 et seq., following the use of excessive force by a detention center officer and her resulting injury. The initial pleadings were removed to federal court and remanded back to state court. Appellant is correct that the case proceeded to trial on an amended complaint. (R. pp.15-19).

Respondent was arrested in her own front yard by the City of North Charleston and charged with Disorderly Conduct. The City arrived at Respondent's home to cut down trees and landscaping that Respondent had planted. These charges were later dropped. While at the detention center, Respondent felt sick to her stomach and light headed, and requested assistance from the detention center staff. (R. pp. 155-157). The detention center staff, including Officer Gladden who was a witness at the trial, did nothing to address Respondent's requests. (R. pp. 155- p. 206-207, lines 18-3). Respondent feared that she would lose consciousness, and so she slid her back down the wall of the detention center intake area and lay down. She remained in this position for several minutes, after which Officer Gladden approached Respondent and abruptly grabbed Respondent under her right elbow and lifted Respondent to her feet, causing personal injury to Respondent's shoulder. Respondent treated with various physicians for almost four (4) years, none of which healed her shoulder. She sought a review of her condition from a surgeon at MUSC, who reviewed her records, performed surgery, and fixed Respondent's shoulder.

Respondent proceeded to trial on two (2) causes of action: gross negligence and negligent supervision and training. (R. p. 17-18). At the close of Respondent's case, Appellant made motions for directed verdict on both causes of action. (R. p. 192-93). The trial judge

granted the motion for directed verdict as to negligent training and supervision, and denied the motion for directed verdict as to gross negligence. (R. p. 237). The Court presented a general verdict form, and both parties consented to the use of the general verdict form. (R. p. 280, lines 11-15).

The jury found in favor of the Respondent and awarded $75,000.00 in damages. (R. p. 335- p. 344-49). There was no indication on the verdict form whether the award was tied to any particular damage figure, such as pain and suffering, medical bills, loss of enjoyment, etc. Appellant failed to file any post-trial motions but made an oral Rule 50 Motion for Judgment Notwithstanding the Verdict, which was a restatement of the Motion for Directed Verdict and which was denied. (R. p. 342-43). This appeal followed.

STATEMENT OF THE FACTS

Respondent Linda Beth Weddle is an avid gardener and amateur ecologist. She had planted gardenias, blueberries, hydrangeas, nanda shrubs, a birch tree, and other plants in her front yard. These plants were in the eight or so feet of her yard starting from the street, which is also the City of North Charleston's right-of-way. At around eight a.m. on the morning of the incident giving rise to this lawsuit, the City sent a landscaping crew to Mrs. Weddle's home to remove the plants that were in the right-of-way. Mrs. Weddle protested, and made calls to the City and the City attorney's office trying to stop the removal. (R. p. 126, lines 17-20.) Her calls did not work. City of North Charleston police responded several times to the residence, and eventually arrested Mrs. Weddle for disorderly conduct.

Mrs. Weddle was transported to the Sheriff Al Cannon Detention Center. While in the intake area, Mrs. Weddle began to feel ill, and made this known to the detention center officers. Officer Gladden was working the intake that day, and she is the officer that injured Mrs. Weddle.

Feeling faint, Mrs. Weddle, all while hand-cuffed, slid down the wall to lay on the floor. There is a dispute over whether Mrs. Weddle refused to follow Officer Gladden's directions to get up, but the videos submitted into evidence without objection show the entire interaction between Mrs. Weddle and Officer Gladden that led to and caused Mrs. Weddle's injuries. (R. p. 352). Because she was on the ground with her hands-cuffed behind her back, Mrs. Weddle could not bring herself to her feet. Frustrated with the situation, Officer Gladden approached Mrs. Weddle, grabbed her under her right elbow, and lifted her from the floor to her feet. This is the act that injured Mrs. Weddle's shoulder. Following her release from the detention center, Mrs. Weddle sought immediate medical treatment. For approximately four years, Mrs. Weddle tried various treatments for her shoulder, none of which worked. Eventually, she had surgery on her shoulder, which healed her. (R. p. 132-33).

ARGUMENT

STANDARD OF REVIEW

Admission of Evidence: The admission or exclusion of evidence in general is within the sound discretion of the trial court. Fields v. Regional Medical Center Orangeburg, 363 S.C. 19, 609 SE 2d 506 (2005).

Directed Verdict: When reviewing the denial of a motion for a directed verdict, this court views the evidence and all reasonable inferences in the light most favorable to the nonmoving party. Pond Place Partners, Inc. v. Poole, 351 S.C. 1, 15, 567 S.E.2d 881, 888 (Ct.App.2002). The trial court can only be reversed by this Court when there is no evidence to support the ruling below. Swinton Creek Nursery v. Edisto Farm Credit, ACA, 334 S.C. 469, 514 S.E.2d 126 (1999). "When considering directed verdict and JNOV motions, neither the trial court nor the appellate court has the authority to decide credibility issues or to resolve conflicts in the

testimony or evidence." Boddie–Noell Properties, Inc. v. 42 Magnolia Partnership, 344 S.C. 474, 544 S.E.2d 279 (Ct.App.2000), *cert. granted.*

I. THE UNREBUTTED TESTIMONY THAT THE DETENTION OFFICER USED THE LIFTING TECHNIQUE SHE HAD LEARNED IN TRAINING ESTABLISHES THAT SHE USED AT LEAST SLIGHT CARE IN LIFTING THE DETAINEE UP OFF OF THE FLOOR OF THE JAIL INTAKE AREA.

A. Was this issue preserved?

The purpose of the rules regarding issue preservation is to provide the trial court a fair opportunity to rule on the issues. Herron v. Century BMW, Op. No. 26805 (S.C. Sup. Ct. filed Dec. 19, 2011) (Shearouse Adv. Sh. No. 45 at 18, 21). Thus, a party cannot present a matter for the first time on appeal. Pikaart v. A & A Taxi, Inc., 393 S.C. 312, 324, 713 S.E.2d 267, 273 (2011). In order to preserve an issue for appellate review, a party must raise that issue to the trial court and obtain a ruling. Foster v. Foster, 393 S.C. 95, 99, 711 S.E.2d 878, 880 (2011). "Imposing such a requirement on the appellant 'is meant to enable the lower court to rule properly after it has considered all relevant facts, law, and arguments.'" Herron, at 21 (quoting I'On, L.L.C. v. Town of Mt. Pleasant, 338 S.C. 406, 422, 526 S.E.2d 716, 724 (2000)). See Nicholson v. Nicholson, 378 S.C. 523, 537, 663 S.E.2d 74, 82 (Ct. App. 2008) ("An issue is not preserved where the trial court does not explicitly rule on an argument and the appellant does not make a Rule 59(e) motion to alter or amend the judgment." (internal quotations omitted)).

At the close of Respondent's case, appellant moved for a directed verdict as to negligent supervision and training. This was granted and is not appealed from by Respondent. (R. p. 192-93). Appellant also moved for directed verdict regarding proximate cause, citing lack of

physician testimony and that there was "no testimony that what is seen on the video tape is the proximate cause of her injury." (R. p. 193). Appellant's motion was denied.

At the close of Appellant's case, it again moved for directed verdict as to gross negligence and proximate cause. The trial court again denied the motion citing opposing expert opinions as to gross negligence and lay testimony in support of proximate cause. Appellant never mentioned testimony related to lifting technique or training as evidence that Officer Gladden was not grossly negligent. (R. p. 264-65).

Following the jury verdict, Appellant moved for judgment notwithstanding the verdict, citing "the same arguments that we made at the close of the plaintiff's case and at the close of the evidence." (R. p. 342, lines 11-14). At no point during either motion for directed verdict nor during the motion for judgment notwithstanding the verdict did Appellant raise the issue stated above. Appellant did not submit a Rule 59(3) motion.

Because the issue above was not preserved for appeal, it would be properly dismissed.

B. There is ample evidence to support the verdict.

"Negligence is the failure to exercise due care, while gross negligence is the failure to exercise slight care." Clyburn v. Sumter City. Sch. Dist. No. 17, 317 S.C. 50,53,451 S.E.2d 885, 887-88 (1994). "Gross negligence is the intentional conscious failure to do something which it is incumbent upon one to do or the doing of a thing intentionally that one ought not to do." Etheredge v. Richland School Dist. 1, 341 S.C. 307, 534 S.E.2d 275, 277 (2000). Jones v. Am. Fid. & Cas. Co., 43 S.E.2d 355, 359 (S.C. 1947); *see also* Best v. Duke Univ., 448 S.E.2d 506, 511 (N.C. 1994) ("In a negligence action, a law enforcement officer is held to the standard of care that a reasonably prudent person would exercise in the discharge of official duties of a like nature under like circumstances." (internal quotation marks omitted)). The determination of

gross negligence is generally one for the jury. Smart v. Hampton County Scho. Dist. No. 2, 315 S.C. 192, 432 S.E.2d 487 (Ct. App. 1993).

Appellant argues the testimony of Officer Gladden that she used the lifting technique she had learned in training is sufficient to establish that she used at least slight care in lifting Respondent from the floor of the jail intake area. Appellant ignores that two videos were shown to the jury that capture the entire interaction between Respondent and Officer Gladden. The jury weighed Officer Gladden's testimony against what is shown in the video evidence, as well as Respondent's testimony, and decided that Appellant was grossly negligent.

Relying primarily on Hamilton v. Charleston Cty. Sherriff's Dep't, 399 S.C. 252, 731 S.E.2d 727 (Ct. App. 2012), Appellant contends that the trial court should have granted a directed verdict in their favor because the only inference that could be reached is that Officer Gladden used at least slight care in using the lift and follow technique, as she had been trained, to get Mrs. Weddle up off the floor of the intake area. Appellant's reliance on Hamilton is unpersuasive. In Hamilton an inmate who had been sexually assaulted by a guard sued the Sherriff's Department for negligent supervision. Hamilton v. Charleston Cty. Sherriff's Dep't, 399 S.C. 252, 731 S.E.2d 727 (Ct. App. 2012). In Hamilton, the only issue on appeal was whether the trial court erred in granting the Department's motion for a directed verdict on the negligent supervision claim. Hamilton v. Charleston Cty. Sherriff's Dep't, 399 S.C. 252, 731 S.E.2d 727 at 730 (Ct. App. 2012). See Jackson v. S.C. Dep't of Corr., 301 S.C. 125, 126, 390 S.E.2d 467, 468 (Ct. App. 1989) (stating to be guilty of gross negligence, defendant's conduct must not have given slight care to what he was doing).

Officer Gladden, during her testimony, descended the witness stand and demonstrated what she believed was the properly employed technique with her trial counsel playing the role of

a handcuffed inmate. (R. p. 207-208). The jury was able to compare this demonstration and testimony against what was shown in the videos and weigh the credibility of Officer Gladden's testimony.

As the trial court pointed out, "[Respondent's expert] testified that it was a breach in the duty of care to lift someone in that manner by their elbow, that they should have known that that would have caused an injury, and in addition to that [Respondent's] complaint should have triggered medical intervention and that that was not adhered to thereby amounting to gross negligence..." (R. p. 346, lines 20-25).

In contrast to Hamilton, here the jury decided only the issue of gross negligence, as the trial court granted Appellant's motion for directed verdict as to negligent training and supervision. Appellant's brief appears to conflate the two causes of action, and appears to argue that, because Detention Officer Gladden claims to have been trained in the lifting technique, she must not be liable for gross negligence as a matter of law. Appellant ignores that the jury, without objection, watched the incident on video, from two different angles, and found that Detention Officer Gladden's actions were grossly negligent. Further, in describing the lifting technique, Appellant's expert Captain Tice explained that it is referred to as "lift and follow," and gave the example of guiding an inmate into a cell, not lifting them from the floor. (R. p. 251, line 19).

Officer Gladden admitted that she did not follow her training regarding medical issues at intake. Officer Gladden testified that when there is a medical emergency at the intake, the proper procedure is to contact a nurse. (R. p. 205, lines 5-7). Mrs. Weddle testified that while she was waiting at the detention center she was ". . . unsteady on [her] feet. Nervous. And [she] felt nauseous." (R. p. 155, lines 15-6). Officer Gladden testified that she did not observe anything

about Mrs. Weddle that made her concerned that she need medical assistance. (R. p. 206-207). Yet when asked whether Mrs. Weddle made any complaints of pain in the booking center, Officer Gladden testified that Mrs. Weddle "...mentioned having an Alka-Seltzer and calling the doctor about some Alka-Seltzer." (R. p. 211, lines 19-20). Officer Gladden also testified that while escorting Mrs. Weddle, she put her hand on the base of Mrs. Weddle's back in case she lost her balance. (R. p. 214, lines 2-11). This testimony alone establishes that the Detention Officer was conscious of Mrs. Weddle's request for medical care, and she was conscious of Mrs. Weddle's need for said medical care. Furthermore, Mrs. Weddle testified that that while at the Detention Center she "...told them that I felt like I was going to throw up, may I have a container in case I vomit, that I didn't want to embarrass myself." (R. p. 155, lines18-20). After receiving no assistance, Mrs. Weddle, feeling sick and unsteady on her feet, slid down the wall and sat down on the floor. (R. p. 156, lines1-2). Based on the foregoing testimony, Officer Gladden admitted that there was protocol regarding medical issues at intake, and she admitted that she did not follow that protocol.

Respondent's expert, James Aiken, who was admitted as an expert without objection, testified that when faced with a similar situation, correctional officers are to act as follows: "First you secure a person, to which she was handcuffed behind her back in the secured area. Number two is when you see the person going down you have to address the medical concern." (R. p. 95, lines1-4). Respondent's expert testified that the medical concern would create a "...medical trigger... for a response to make an examination of this newly entering person into a facility and why that person is going down to the floor without any precursor other than illness or at least demonstrating a possibility of illness." (R. p. 94, lines 18-23). Respondent's expert further testified that due to the medical aspect of the situation, the Detention Center should have had

"...a medical response to make an examination. And at that time medical staff will make the determination on whether this person gets on a gurney or whether that person is to be assisted in order to not create a situation of injury. Which is very easily done when a person is under restraints like this." (R. pp. 95-6, lines 25-7).

There is more than ample testimony and evidence in the record to support the trial court's denial of Appellant's motion for directed verdict as to gross negligence. Officer Gladden explained that she needed to get Mrs. Weddle off the floor because she posed a hazard to herself and others. The Detention Officer testified that she requested Mrs. Weddle "...get herself up off the floor..." to which Mrs. Weddle, who was handcuffed at the time, did not comply. (R. p. 208, lines 13-18). Mrs. Weddle testified that she could not comply with the Detention Officer's request because she was "...sick and unsteady..." making it difficult for her to stand back up while handcuffed behind her back. (R. p. 157, lines 22-24). Officer Gladden then grabbed Mrs. Weddle's elbow and forcefully lifted her up off the floor. (R. pp. 208-9, lines 13-10).

Respondent's expert testified that after Mrs. Weddle slid down and was lying on the floor "... [Officer Gladden] ...Began to pick her up by...the elbow and arm, which is inappropriate." (R p. 95, lines 10-17). When questioned how a correctional officer is supposed to lift a person who is handcuffed and on the ground, such as Mrs. Weddle, Mr. Aiken responded "Well, number one that is that they are not supposed to use the elbow. They are supposed to come under the armpits." (R. p. 95, lines 22-24). In contrast, Defense's expert in jail practices and procedures testified that lifting a detainee off the ground by their elbow is a proper mechanism for getting them off the ground and that Officer Gladden properly used a lift and follow technique as she was trained to do. (R. p. 251, lines 12-23 - p. 257, lines 6-18). Officer Gladden testified that the technique she used to lift Mrs. Weddle up off the floor required "...the assistance of that person."

(R p. 208, line 3). While there is a dispute over the appropriate lifting technique, Mrs. Weddle made it clear to Officer Gladden that she required medical assistance, and therefore the proper action in this situation would have been to alert medical staff. Mr. Aiken testified that "When you – when you are under restraints in lawful custody the responsibility for your safety and well-being it now rests with us, the correctional official, the arresting officer." (R. p. 115, lines 3-7). The conflicting opinions over proper technique and course of action create a question of fact that was properly submitted to the jury.

II. THE PLAINTIFF DETAINEE DID NOT PRESENT ANY MEDICAL EVIDENCE TO PROVE PROXIMATE CAUSE.

A. The Trial Court erred in allowing evidence of $52,192.72 in medical expenses where the Plaintiff Detainee failed to present any medical expert testimony of a causal link between the medical treatment and the actions of the Detention Officer in lifting her up off the floor.

Appellant contends that a medical expert was required to testify to the causal link between treatment and Officer Gladden's acts and omissions. There are three problems with this argument: Appellant failed to preserve this issue for appeal, lay testimony regarding damages is a question of weight and credibility for the jury, and the general verdict form does not indicate whether the jury awarded any money for medical bills.

i. Preservation

The purpose of the rules regarding issue preservation is to provide the trial court a fair opportunity to rule on the issues. Herron v. Century BMW, Op. No. 26805 (S.C. Sup Ct. filed Dec. 19, 2011) (Shearhouse Adv. Sh. No. 45 at 18, 21). Thus, a party cannot present a matter for the first time on appeal. Pikaart v. A & A Taxi, Inc., 393 S.C. 312, 324, 713 S.E.2d 267, 273 (2011). In order to preserve an issue for appellate review, a party must raise that issue to the trial court and obtain a ruling. Foster v. Foster, 393 S.C. 95, 99, 711 S.E.2d 878, 88 (2011).

"Imposing such a requirement on the appellant is 'meant to enable the lower court to rule properly after it has considered all relevant facts, law and arguments." Herron, at 21 (quoting I'On, L.L.C. v. Town of Mount Pleasant, 338 S.C. 406, 422, 526 S.E.2d 716, 724 (2000)). See Nicholson v. Nicholson, 378 S.C. 523, 537, 663 S.E.2d 74, 82 (Ct. App. 2008) ("An issue is not preserved where the trial court does not explicitly rule on an argument and the appellant does not make a Rule 59(e) motion to alter or amend the judgment." (internal quotations omitted)).

Respondent testified that the amount of her medical bills related to treatment for her injuries was $52,192.72. (R. p. 165, line 17). The actual bills and records were never offered into evidence. Prior to this testimony, defense counsel requested and received a bench conference. (R. p. 164, lines 22-5). Based on the transcript, it appears that an objection was discussed in the bench conference, although the exact terms of the objection were never put on the record. (R. p. 165, lines 1-6).

Because Appellant failed to make a clear and timely objection on the record to Respondent's testimony, it has likely failed to preserve this issue for appeal.

ii. Lay Testimony Regarding Damages and Verdict Form

Expert testimony is not required to prove proximate cause if the common knowledge or experience of a layperson is extensive enough. Bramlette v. Charter-Med.-Columbia, 302 S.C. 68, 72-73, 393 S.E.2d 914, at 916 (1990). More specifically, expert testimony is not required to prove proximate cause if the common knowledge or experience of laypersons is extensive enough to determine the presence of the required causal link between the medical treatment and the patient's injury. Pederson v. Gould, 288 S.C. 141, at 143, 341 S.E.2d 633, at 634 (1986); King v. Williams, 276 S.C. 478, 279 S.E.2d 618 (1981).

Respondent testified that Officer Gladden caused her injuries when she lifted Respondent from the floor. (R. p. 157, lines 6-7, lines 22-4). The videos showing Officer Gladden lift Respondent by her elbow were played for the jury without objection. (R. pp. 141-2). As explained by the trial court, the jury's verdict was general and Appellant cannot say what part of the award, if any amount, was related to medical bills. (R. p. 337-8). The verdict form was submitted to the jury without objection. (R. p. 280, lines 11-15).

Therefore, because a lay person may testify as to their own damages, because the jury was able to view the tortious event on video and weigh the credibility of Respondent's testimony, because the jury's verdict does not indicate any amount apportioned to medical bills, and because the verdict form was used without objection, this issue on appeal would be properly denied.

B. **The Trial Court erred in denying the Defendant Sherriff's Office motion for a directed verdict where the Plaintiff Detainee failed to meet her burden of presenting any medical expert testimony that the $52,192.72 in medical expenses were proximately related to the alleged gross negligence.**

Appellant argues that the trial court erred in denying its motion for directed verdict because the Plaintiff failed to meet her burden of presenting medical expert testimony of a causal link between the medical treatment, the $52,192.72 in medical expenses and the actions of Officer Gladden in lifting her up off the floor. Appellant relies on Carlyle v. Tuomey Hosp., 407 S.E.2d (1988) and O'Leary-Payne v. R.R. Hilton Head, II, 638 S.E.2d 96 (Ct. App. 2006), in its improper assertion that in this case expert testimony was required to prove proximate cause. Citing O'Leary-Payne, Appellant states expert testimony is required to prove a causal link between the wrongful conduct and the injury where the causation issue is beyond the common knowledge or experience of a layperson. Expert testimony is not required to prove proximate

cause if the common knowledge or experience of laypersons is extensive enough to determine the presence of the required causal link between the medical treatment and the patient's injury. Pederson v. Gould, 288 S.C. 141, 341 S.E.2d 633 (1986); King v. Williams, 276 S.C. 478, 279 S.E.2d 618 (1981).

Appellants citation of Carlyle is not helpful in this case. In Carlyle, the court held that expert medical testimony was required for Plaintiff's hospital bill, which showed no apportionment of the cost for his penis reconstruction and treatment of a pre-existing condition. Appellant cites Carlyle stating: "Medical bills not clearly identified by medical testimony, or otherwise, as being connected with the tortious act which resulted in injuries under litigation are generally held inadmissible," but leaves out the remainder "...especially where there is evidence that Plaintiff was treated for a condition unrelated to the injuries sustained in the accident." Contrary to Appellant's assertions, Mrs. Weddle's injury is quite simple as compared to a penis reconstruction; Mrs. Weddle was lifted by her right elbow, claims only injury to her right shoulder, and the jury watched two videos showing the incident. Further, Respondent offered only testimony as to the aggregate amount of her medical bills over four years of treatment. No bills or records were admitted into evidence. Appellant's opportunity to combat this testimony was on cross-examination.

The South Carolina Supreme Court has ruled that expert testimony is not required to prove proximate cause if the common knowledge or experience of a layperson is sufficient. Bramlette v. Charter–Med.–Columbia, 302 S.C. 68, 72–73, 393 S.E.2d 914, at 916 (1990). Expert testimony is not required to prove proximate cause if the common knowledge or experience of laypersons is extensive enough to determine the presence of the required causal link between the medical treatment and the patient's injury. Pederson v. Gould, 288 S.C. 141, at

143, 341 S.E.2d 633, at 634 (1986); King v. Williams, 276 S.C. 478, 279 S.E.2d 618 (1981). Furthermore, the Court stated in Ballenger that... "the syllabus is: 'The testimony of an injured person as to the extent of his injuries may be believed in preference to the opinions of physicians testifying to the contrary.'" Ballenger v. S. Worsted Corp., 209 S.C. 463, 469, 40 S.E.2d 681, at 684 (1946). The court in Roscoe noted that

> "where physical injury is coincident with or immediately follows an accident and is naturally and directly connected with it lay testimony may be sufficient to carry to the triers of the facts the issue of whether or not the accident proximately caused it, despite expert medical testimony that it did not."

Roscoe v. Grubb, 237 S.C. 590, at 596 118 S.E.2d 337 at 596, 118 S.E. 2d at 340 (1961) citing; Poston v. Southeastern Construction Co., 208 S.C. 35, 36 S.E.2d 858; Ballenger v. Southern Worsted Corp., 209 S.C. 463, 40 S.E.2d 681. The Supreme Court said that in such cases consideration is to be given to the fact that the physical injury immediately, or promptly, followed the accident; but that is not to say that a finding of causation may rest solely upon the illogic of *post hoc, ergo propeter hoc*. *Id.* at 596, 118 S.E. 2d at 340. There must, in addition, be such natural and obvious relationship between the facts of the accident and the subsequent injury as to render consonant to common sense and reason the inference that the injury not only followed the accident but also resulted from it. *Id.* Therefore, Appellant's contention that medical evidence is required to establish a causal link between the Detention Officer's action in lifting Mrs. Weddle and her injury to her shoulder and $52,192.72 in medical expenses is without merit.

The trial transcript is full of testimony regarding the natural and obvious relationship between the incident at the detention center and the subsequent injury. Both Respondent's and her husband's lay testimony is sufficient to establish a causal link. Mrs. Weddle's husband, Mr.

Weddle, testified that prior to Mrs. Weddle's injury at the detention center, his wife lived an active lifestyle. (R. p. 123, lines 2-5). He further described his wife as an avid landscaper and gardener and an active volunteer in their community. (R. p. 123, lines 2-10). He testified that prior to the incident Mrs. Weddle volunteered for Charleston City Police Department and Burns Elementary where she would teach children about the importance of plants. (R. p. 123, lines 12-15). He also explained that his wife played an important role in their rental business by doing all the landscaping at their rentals and by interviewing and communicating with prospective tenants. (R. p. 124, lines 9-12). He also testified that prior to the incident Mrs. Weddle worked in Hampton Park and worked in the horse stables (R. p. 124, lines 8-10). Mr. Weddle testified that after the incident his wife was disabled. (R pp. 131-4). He testified that, just after the incident at the detention center, she was unable to move or lift her shoulder or her arm thereby restricting her from enjoying any activities she previously enjoyed. (R. p. 131, lines 14-19). Mrs. Weddle testified that for four years she sought various treatments from numerous doctors, which were ultimately unsuccessful. (R. p. 161, lines 18-25 – p. 162, lines 1-3). Mr. Weddle testified that his wife finally found relief after she had surgery on her shoulder and part of her arm. (R. p. 132, lines 14-16). Mr. Weddle explicitly stated that the source of his wife's harm was the detention center. (R. p. 133, lines 2-5). Mrs. Weddle herself also testified that being lifted by her elbow caused her injury. (R. pp. 157-58).

Appellant's contention that medical expert testimony is required to establish a causal link between Officer Gladden's action in lifting Mrs. Weddle, the subsequent injury to her shoulder, and $52,192.72 in medical expenses is without merit. This case did not involve conditions unrelated to the tortious conduct, and therefore Carlyle does not apply. Further, the record is teeming with testimony from Respondent and her husband relating the incident at the

detention center to Respondent's injuries and related damages. Therefore, this issue on appeal would be properly denied.

CONCLUSION

This case was properly submitted to the jury. By failing to raise the first issue stated in Appellant's Initial Brief and obtain a ruling on it from the trial court, Appellant has failed to preserve this issue for appeal. Looking past the failure to preserve, there was more than enough evidence to support the jury's verdict. This includes, but is not limited to, the video evidence and testimony from the witnesses. Appellant's argument that Officer Gladden's self-serving testimony created conclusive proof is circular and flawed logic. The jury clearly did not assign great weight and credibility to this testimony as compared to Respondent's expert, who instructed that the lifting technique was grossly negligent and that Officer Gladden should have acted differently.

Appellant's penultimate argument regarding expert testimony of the causal link between the injury and medical expenses may also be properly rejected for failure to preserve because there was never a clear objection made on the record. Ignoring the failure to preserve, this argument is incorrect because lay testimony may be used to establish causation where the common knowledge or experience of laypersons I extensive enough to determine the presence of the causal link between treatment and injury. The record is replete with such testimony.

Further, the jury awarded general damages of $75,000.00 without any indication on the verdict form as to what that amount represented. This verdict form was submitted to the jury without objection. Therefore, Appellant cannot show that the medical expenses were even used in the jury's calculations and this argument is properly denied.

Finally, Appellant's last argument regarding expert testimony is, more or less, a restatement of the foregoing argument. For the same reasons stated above, this final issue would also be properly rejected.

WHEREFORE, Respondent respectfully requests that the jury verdict be AFFIRMED.

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CERTIFICATE OF COUNSEL

The undersigned certifies that this Final Brief complies with Rule 211(b), South Carolina Appellate Court Rules.

Daniel C. Boles