THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Alison Renee Lee, Circuit Court Judge

Case No. 2014-CP-40-5663
Appellate Case No. 2016-002168

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SC Court of Appeals

Renee Hale Shelley,
as Personal Representative
of the Estate of Michael Mann Lindler . . . Appellant/Respondent,

v.

South Carolina Highway Patrol . . . . Respondent/Appellant.

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TABLE OF CONTENTS

Table of Authorities ii

Statement of Issue on Appeal 1

Whether the circuit court erred in granting the Highway Patrol immunity when there was evidence a patrolman's decision to leave a stranded and impaired motorist on the side of the road plainly violated the standard of care and increased the motorist's exposure to the danger that claimed his life.

Statement of the Case 1

Arguments 6

A. The circuit court incorrectly applied "policy immunity." There was evidence the relevant policy did nothing more than re-state an already existing duty of care 7

B. The circuit court incorrectly applied "police protection immunity." Precedent recognizes liability when an officer tries to assist an impaired person but makes the situation worse 9

C. The circuit court incorrectly held custodial liability did not apply. A party may not avoid the gross negligence standard by omitting selected portions of the Tort Claims Act from its pleadings 13

Conclusion 16

TABLE OF AUTHORITIES

Caldwell v. K-Mart,
306 S.C. 27, 410 S.E.2d 21 (Ct. App. 1991) 9

Chakrabarti v. City of Orangeburg,
403 S.C. 308, 743 S.E.2d 109 (Ct. App. 2013) 15

Clark v. Dep't of Pub. Safety,
353 S.C. 291, 578 S.E.2d 16 (Ct. App. 2002) 7, 8, 9, 11

Edwards v. Lexington County Sheriff's Dep't,
386 S.C. 285, 688 S.E.2d 125 (2010) 11

Jackson v. Dep't of Corr.,
301 S.C. 125, 390 S.E.2d 467 (Ct. App. 1989) 15

Jones v. Lott,
387 S.C. 339, 692 S.E.2d 900 (2010) 15, 16

McCall v. Batson,
285 S.C. 243, 329 S.E.2d 741 (1985) 12

Padgett v. Colleton County,
383 S.C. 431, 679 S.E.2d 533 (Ct. App. 2009) 6

Peterson v. Nat'l R.R. Passenger Corp.,
365 S.C. 391, 618 S.E.2d 903 (2005) 9

Plyler v. Burns,
373 S.C. 637, 647 S.E.2d 188 (2007) 15

Russell v. City of Columbia,
305 S.C. 86, 406 S.E.2d 338 (1991) 11, 12

Steinke v. Dep't of Labor, Licensing & Reg.,
336 S.C. 373, 520 S.E.2d 142 (1999) 15

Wells v. City of Lynchburg,
331 S.C. 296, 501 S.E.2d 746 (Ct. App. 1998) 10

Cases from Other Jurisdictions

State v. Terrell,
588 S.W.2d 784 (Tex. 1979) 10

Statutes and Other Authorities

S.C. Code Ann. § 15-78-20 (2005) 7

S.C. Code Ann. § 15-78-40 (2005) 7

S.C. Code Ann. § 15-78-60 (2005) 5, 7, 10, 13, 14

S.C. Code Ann. § 23-6-20 (2007) 7

Act. No. 463 of 1986 12

STATEMENT OF ISSUE ON APPEAL

Whether the circuit court erred in granting the Highway Patrol immunity when there was evidence a patrolman's decision to leave a stranded and impaired motorist on the side of the road plainly violated the standard of care and increased the motorist's exposure to the danger that claimed his life.

STATEMENT OF THE CASE

A. Abbreviated summary.

This is an appeal from a directed verdict. The circuit court held the Tort Claims Act provided the S.C. Highway Patrol with immunity in the death of Michael Lindler, a stranded motorist. The evidence was contested, but there was evidence showing a highway patrolman who assisted Lindler knew that Lindler was impaired but left Lindler with his vehicle on the side of the road anyway. There was evidence this violated protocol as well as the standard of care. It also increased Lindler's exposure to the danger that claimed his life less than an hour later. This appeal is about whether the decision to direct a verdict was incorrect.

B. Factual & procedural background.

Michael Lindler died December 17, 2012, as a result of being struck by a vehicle on Interstate 20 outside Columbia. He was 19 years old. (R.p.21, ¶3).

Nobody contests certain facts. Lindler walked into the interstate and was hit by a car. (R.pp.23-24, ¶¶10-11). He had Methadone and Xanax in his system. *Id.*

Lindler's personal representative filed this lawsuit in July of 2014. According to the complaint, Lindler met a highway patrolman shortly before his death, while Lindler's vehicle was broken down in I-20's right lane. (R.p.21, ¶3). The complaint alleged Lindler's impairment was obvious throughout the encounter (R.p.21, ¶4) and that the patrolman was

grossly negligent in leaving Lindler after Lindler moved his truck out of the roadway. (R.p.23, ¶¶8-9). The complaint contained wrongful death and survival claims. (R.pp.25-29).

The Highway Patrol answered and raised a number of defenses, including immunity under the South Carolina Tort Claims Act. (R.p.43, ¶20).

The case was tried for five days in March of 2016. (R.p.48).

Both parties called lay and expert witnesses. A key piece of evidence was the patrolman's fifteen minute recording of his and Lindler's encounter. The recording (Plaintiff's Exhibit 1) was designated for the Record and is available for review.

Both parties argued the recording supported their positions.

Appellant said the patrolman obviously knew Lindler was impaired. The recording captured the patrolman immediately taking Lindler's license, repeatedly asking Lindler what was wrong with him or what he was "on," and eventually administering a field sobriety test. The recording also captured Lindler demonstrating confusion about obvious information. Lindler initially told the officer there was a problem with his truck's battery cables. In reality, Lindler's truck was out of gas.

Appellant's expert on police conduct noted each of these things in his testimony. (R.p.69, line 3 - 71, line 19; p.79, lines 1-10; p.96, lines 18-25). This expert explained it is vitally important to give officers the benefit of the doubt and to resist letting scrutiny of an officer's conduct be colored by hindsight. (R.p.93, line 4 - p.95, line 21; p.103, line 15 - p.105, line 14). He nevertheless opined—repeatedly—that the patrolman's decision to leave Lindler and his passenger on the side of the interstate was unreasonably dangerous. (R.p.72, line 9 - 74, line 20; p.77, lines 10-25; p.94, line 19 - p.95, line 14; p.98, line 24 - p.99, line

6; p.106, lines 5-12). He also opined the patrolman was "too trained and experienced *not* to know" Lindler was impaired. (R.p.78, lines 8-16) (emphasis added).

The Highway Patrol believed the recording vindicated the patrolman. It pointed to Lindler's successful completion of the field sobriety test—Lindler recited the alphabet—and to the fact Lindler did not have slurred speech. (R.p.187, lines 2-9; p.211, line 6). The video captured the patrolman ordering Lindler to get out of the road, and while Appellant believed this showed Lindler's impairment—Lindler seemed oblivious to his location—the Highway Patrol pointed out Lindler complied with the patrolman's direction. Compare (R.p.68, lines 12-19) with (R.p.211, line 18 - p.212, line 25) and (R.p.215, lines 13-18). The patrolman said Lindler's explanation he had been up all night and had the flu made sense. (R.p.60, lines 15-23). Lindler "did everything I asked," (R.p.187, lines 2-9), and the patrolman "confirm[ed]" Lindler had help coming. (R.p.58, line 21 - p.59, line 2).

On the fifth day of trial, after both parties finished presenting their cases to the jury, the circuit court directed a verdict for the Highway Patrol. The court filed a written order four months later, on July 19, 2016. (R.p.1).

Plaintiff filed a timely motion to reconsider. (R.p.45). The circuit court denied the motion in a second written order. (R.p.18).

C. Directed verdict arguments and circuit court ruling.

The Highway Patrol offered several directed verdict arguments. It argued the patrolman did not owe Lindler any duty of care. (R.p.226, lines 5-6). It argued the court should find Lindler had himself been negligent—as a matter of law—before the court submitted the case to the jury. (R.p.235, line 8 - p.236, line 8).

The Highway Patrol began its arguments alleging "this is a gross negligence case" and claiming Appellant had not carried this burden of proof. (R.p.220, lines 13-22). That position was short-lived: the Patrol would later argue gross negligence was irrelevant because the Patrol was categorically immune from suit. (R.p.244, lines 20-22).

It did not matter whether there was evidence the Highway Patrol violated its own policies. The Highway Patrol believed the Tort Claims Act immunizes such violations. (R.p.243, lines 11-17).

It also did not matter whether certain sections of the Tort Claims Act recognize gross negligence as the standard. The Highway Patrol contended those sections did not apply because the Highway Patrol did not plead them. (R.p.245, lines 5-14).

The Highway Patrol argued the suit was barred because Lindler's claim was nothing more than an allegation the Patrol failed to protect him. (R.p.245, lines 14-22). The Highway Patrol believed this too was covered by blanket immunity. *Id.*

The Highway Patrol asked the court to assume the patrolman did everything wrong—to assume the patrolman's actions were willful, wanton, and reckless. (R.p.261, line 8 - p.266, line 4). The Highway Patrol contended it was nevertheless immune because law enforcement officers have "the right to be wrong." (R.p.263, line 11).

Appellant contended each of the Highway Patrol's arguments was unsupported by basic tort principles and the Tort Claims Act's plain language.

Appellant claimed there were multiple pathways for liability. In addition to policy violations, Appellant argued a law enforcement officer has a duty to protect an impaired person. (R.p.229, line 22 - p.230, line 3). Appellant also argued the patrolman voluntarily

undertook a duty of care. (R.p.267, line 15 - p.268, line 23). Appellant believed the patrolman knew Lindler was impaired. (R.p.223, lines 8-18; p.269, lines 13-14).

Appellant pointed to evidence Lindler had been in the patrolman's custody. (R.p.230, lines 4-23). One of Appellant's experts testified Lindler *had not* been free to leave after the patrolman seized Lindler's license. (R.p.79, lines 1-19). The patrolman himself testified he would not have allowed Lindler to leave during part of the encounter. (R.p.210, lines3-15). Appellant explained this implicated the Tort Claims Act's custodial provision—a provision noting liability for gross negligence. (R.p.249, lines 5-10). The Highway Patrol had not pled immunity under the custodial provision but Appellant argued the Highway Patrol could not avoid the gross negligence standard by strategically omitting selected portions of the Tort Claims Act from its answer. *Id.*

The circuit court granted immunity for three reasons. The court's oral ruling was lengthy, spanning seven pages of transcript. (R.p.300, line 3 - p.307, line 17). The written order is also extensive. (R.pp.1-17).

First, the court believed Appellant's claims relied on violations of the Highway Patrol's internal policies. The court held the Tort Claims Act immunizes the Highway Patrol from liability for such violations. (R.pp.10-13) (referencing § 15-78-60 (4)).

Second, the court believed Appellant's claims implicated the patrolman's method of providing Lindler with police protection. The court held the Tort Claims Act barred any claims involving police protection. (R.pp.14-15) (referencing § 15-78-60 (6)).

Last, the court held the Tort Claims Act's custodial provision did not apply because the Highway Patrol never raised it as a defense. (R.pp.15-16) (referencing § 15-78-60 (25)).

ARGUMENT

A directed verdict must be denied if a verdict against the Highway Patrol was reasonably possible when the facts are "liberally construed" in Appellant's favor. *Padgett v. Colleton County*, 383 S.C. 431, 435, 679 S.E.2d 533, 536 (Ct. App. 2009). Appellant gets the benefit of the doubt. The Highway Patrol does not.

This requirement—that the facts be viewed through a partisan lens—is keenly important. Appellant's version of the facts is compelling. The Tort Claims Act does not grant immunity to outright wrongdoing, yet the ruling below misconstrued the Act, interpreting it in a way that insulates law enforcement agencies from *any* liability for gross negligence. Under the circuit court's reasoning, immunity will apply whenever the agency claims it was violating a policy, was engaged in "police protection," and omits the Tort Claims Act's gross negligence provisions from its pleadings. These views are inconsistent with the Act and with precedent. The Act preserves immunity for policy decisions entrusted to governmental discretion. It is not a "get out of gross negligence free" card.

In the end, a jury may well conclude the Highway Patrol's opening argument was correct and this is a tragedy without a villain. (R.p.55, lines 17-18). After all, it is not the patrolman's fault Lindler took drugs before he drove.

But it *was* the patrolman's decision to leave Lindler on the side of the road, and long-standing precedent recognizes liability if that decision increased Lindler's exposure to danger. A jury could find the patrolman's leaving created a volatile environment that was ready to explode. (R.p.100, lines 16-24). The Tort Claims Act would not immunize that conduct from liability. This Court should reverse.

A. The circuit court incorrectly applied "policy immunity." There was evidence the relevant policy did nothing more than re-state an already existing duty of care.

The Tort Claims Act codifies sovereign immunity, then waives sovereign immunity, explaining a governmental entity is liable for its torts in the same manner and to same extent as a private individual. S.C. Code Ann. §§ 15-78-20(b) & -40 (2005). This is a qualified waiver. A different statute lists forty exceptions preserving immunity.

That statute's fourth subsection explains the government is not liable for:

> adoption, enforcement, or compliance with any law or failure to adopt or enforce any law, whether valid or invalid, including, but not limited to, any charter, provision, ordinance, resolution, rule, regulation, or written policies.

S.C. Code Ann. § 15-78-60(4) (2005). The circuit court held this grants the Highway Patrol immunity when officers violate policies governing officer conduct. (R.p.13).

The Highway Patrol is part of the Department of Public Safety. See S.C. Code Ann. § 23-6-20(A) (2007). The policy in question—DPS Policy 300.14, section XI—explains officers will stop to assist disabled motorists, will ensure the protection of stranded persons by directing them away from traffic, and "[a]t the request of any stranded or disabled motorist, the officer will ensure that the motorist does not remain in a hazardous location or environment, even if it means transporting the motorist to a suitable public location." (R.pp.331-332).

The circuit court's ruling incorrectly failed to distinguish between conduct that does nothing more than violate a policy and conduct that violates the standard of care as well as a policy. The chief case exploring this distinction is this Court's decision in *Clark v. Department of Public Safety*, 353 S.C. 291, 578 S.E.2d 16 (Ct. App. 2002).

Clark involved a high speed chase: a motorist was struck and killed by a fleeing suspect. The motorist's personal representative filed suit and claimed there were violations of Department policy. The Department argued for "absolute immunity as a matter of law." 353 S.C. at 306, 578 S.E.2d at 24. The Highway Patrol makes the same argument here.

This Court rejected the Department's argument, explaining the relevant policy "was merely a statement of generally accepted law enforcement guidelines." *Id.* at 307-08, 578 S.E.2d at 24. Put differently, there was evidence the policy amounted to nothing more than a re-statement of the already-applicable standard of care. This was insufficient for immunity. The government may not take a standard of care, enact a policy re-stating that standard, and use that enactment to get immunity for misconduct.

The Highway Patrol is trying the same thing tried in *Clark.* Appellant argued a law enforcement officer has a duty to protect an impaired person. (R.p.229, line 22 - p.230, line 3). Appellant's police conduct expert testified the duty to affirmatively assist someone like Lindler was consistent with the law enforcement code of ethics as well as the relevant policies. (R.p.75, line 25 - p.76, line 11). The commander of the Highway Patrol's training unit explained "[a] lot of our policies are just common sense." (R.p.213, lines 23-24). The Highway Patrol's duty exists irrespective of the policy.

There was also debate about whether a policy violation was even in play. The training unit commander explained the policy is to be applied word-for-word and the disabled motorist must request transportation, which Lindler never did. (R.p.214, lines 4-13). Yet this witness also explained if an officer believed a disabled motorist was impaired, he would expert the officer to act. (R.p.216, line 13 - p.217, line 14).

As in *Clark*, there is evidence this policy does nothing more than repeat the standard of care the Highway Patrol is already supposed to provide. There, as here, "[t]he mere fact that the Department enacted a policy does not protect it from having to meet a standard of care that exists whether the policy was enacted or not." *Id.* at 308, 578 S.E.2d at 24.

Furthermore, and there is no need to go further on this issue, it is worth noting the circuit court's holding is at odds with this subsection's true intent. "Policy immunity" means the government may not be held liable merely because a public official adopts a law, enforces a law, fails to adopt a law, or fails to enforce a law. Those matters involve competing considerations, and a core aim of preserved governmental immunity is preventing the civil court system from second-guessing another branch of government's decisions. Many factors go into the decision to adopt or enforce rules. It is not the court's role to weigh them.

But there are no competing factors when it comes to standards government agencies set for their employees. A defendant's policies are critical pieces of evidence precisely because they are relevant to the standard of care. *Peterson v. Nat'l R.R. Passenger Corp.*, 365 S.C. 391, 397, 618 S.E.2d 903, 906 (2005); *Caldwell v. K-Mart*, 306 S.C. 27, 31, 410 S.E.2d 21, 24 (Ct. App. 1991). It matters when people break the rules. "Policy immunity" is not a license to violate government policies or escape liability imposed at common law.

B. The circuit court incorrectly applied "police protection immunity." Precedent recognizes liability when an officer tries to assist an impaired person but makes the situation worse.

The broadest part of the circuit court's ruling was its analysis of "police protection immunity." The court ruled there was a question of fact about whether the patrolman performed a protected exercise of discretion, but the court nevertheless held everything in

Appellant's lawsuit was properly characterized as a claim the patrolman had not adequately provided Lindler with police protection. (R.pp.13-15).

The Tort Claims Act explains the government is not liable for:

> civil disobedience, riot, insurrection, or rebellion or the failure to provide the method of providing police or fire protection.

S.C. Code Ann. § 15-78-60(6) (2005). The principal case addressing this subsection is *Wells v. City of Lynchburg*. That decision acknowledges the identical language appearing in Oklahoma and Texas and concludes South Carolina's statute has a scrivener's error. See 331 S.C. 296, 303-304, 501 S.E.2d 746, 750 (Ct. App. 1998).

This subsection is designed to avoid judicial review of the policy decisions involving how much police or fire protection to provide a community. The Supreme Court of Texas explained this, observing the government is immune if its negligence lies in formulating a policy but that liability *may* exist if an officer acts negligently in carrying out that policy. *State v. Terrell*, 588 S.W.2d 784, 788 (Tex. 1979).

The same decision also articulates why the circuit court's holding here is wrong: since the government is only liable if government employees are acting in the course and scope of their employment, the circuit court's reasoning "would exempt virtually all activities of police and firemen" from the Tort Claims Act. *Id.* at 786. If police get immunity for police protection, they are immune for everything they do.

The Tort Claims Act is not so broad, and precedent recognizes this. If police protection immunity applied in the way the circuit court construed it to apply, several cases need to be overruled.

Clark v. Department of Public Safety would have been barred by immunity. See 353 S.C. at 578 S.E.2d at 18. That case plainly represents a challenge to the Highway Patrol's method of protecting the public from a fleeing suspect.

Edwards v. Lexington County Sheriff's Department would also be barred by immunity. See 386 S.C. 285, 688 S.E.2d 125 (2010). The allegation there—that the Sheriff's Department created a situation where it knew or should have known the plaintiff faced a substantial risk of injury—plainly implicates police protection.

Appellant argued *Russell v. City of Columbia* was similar to Lindler's case. *Russell* involved an intoxicated person thrown out of a bar. Police took control of the situation, dispersing people who had been trying to help the impaired person. A lawsuit followed after that person died, and the Supreme Court reversed the grant of a non-suit, explaining although there is no duty to act under the common law, an actor assumes the duty to use due care when an act is voluntarily undertaken. See 305 S.C. 86, 89-90, 406 S.E.2d 338, 339-340 (1991). When the police pre-empted the efforts of people who were attempting to provide aid, the police "incurred a duty to follow through and finish what was begun." *Id.* at 339, 406 S.E.2d at 89. One cannot attempt to provide aid and leave the plaintiff worse off.

This too would have been barred by the circuit court's view of police protection immunity. Appellant directed the circuit court to *Russell*, both during the directed verdict arguments and in Appellant's motion to reconsider. (R.p.256, line 7 - p.257, line 6; p.309, line 21 - p.312, line 18).

The circuit court distinguished *Russell*, reasoning it "was prior to" the Tort Claims Act's enactment. (R.p.18). That reasoning is factually mistaken.

The incident in *Russell* occurred in September of 1985. 305 S.C. at 87, 406 S.E.2d at 338. This was after the Supreme Court issued its decision declaring sovereign immunity would be abolished, but that decision did not take effect immediately. *McCall v. Batson*, 285 S.C. 243, 246-47, 329 S.E.2d 741, 743 (1985). Most importantly, the lawsuit in *Russell* was not filed until June of 1987.[1] The Tort Claims Act became effective July 1, 1986— almost a year earlier. Act. No. 463, 1986 S.C. Acts 3001, 3022. *Russell* was filed after the Act applied, not before. There is no meaningful distinction.

Appellant has at least a plausible case for *Russell*'s application, if not a strong one.

Lindler had help before the patrolman arrived. The video shows another motorist parked behind Lindler's vehicle with hazard lights activated. This motorist says something to the patrolman about Lindler, causing the patrolman to respond "is he [Lindler] drunk?" The patrolman sends this motorist away, telling him the patrolman will push Lindler's vehicle out of the road. After pushing Lindler's vehicle out of the road, the patrolman parked his vehicle at an offset —not directly behind Lindler's vehicle, but behind and to the left of Lindler. Testimony explained officers are trained park in this way, creating space where someone may safely investigate or repair the disabled vehicle. (R.p.67, lines 6-12).

When the officer left Lindler and his passenger, the safety barrier was gone. Lindler had been protected by the patrol car's physical presence and its flashing lights, and he had been protected by the fellow motorist's vehicle and lights before the patrol car arrived. Appellant's expert explained why the patrolman's absence made the situation so much more dangerous. This environment was already difficult: it was dark outside and getting darker,

[1] *Russell*'s appellate record is available in the Supreme Court Library.

it was raining, I-20 was a two-lane construction zone, and there was no emergency lane. (R.p.66, lines 2-13). Any attempt to put gas in the vehicle would involve someone standing *in* the roadway, with questionable lighting. (R.p.73, line 15 - p.74, line 20). A reasonable jury could conclude Lindler would have been better off if the patrolman was never there. No evidence suggested the kind-hearted stranger intended to leave Lindler stranded.

Police protection immunity does not bar this lawsuit. None of these cases—*Russell*, *Clark*, and *Edwards*—have ever been limited or overruled. The Tort Claims Act does not grant the police immunity for any act that can be called police protection. Police protection is virtually everything law enforcement officers do.

C. The circuit court incorrectly held custodial liability did not apply. A party may not avoid the gross negligence standard by omitting selected portions of the Tort Claims Act from its pleadings.

The final exception the circuit court analyzed provides the government 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.

S.C. Code Ann. § 15-78-60(25) (2005). This section acknowledges the possibility of liability for gross negligence.

The circuit court held this section did not apply because the Highway Patrol did not raise it as a basis for immunity in its answer. (R.p.16). The circuit court's order recites facts supporting Appellant's argument on custody—Appellant claimed the patrolman exercised control over Lindler by gathering Lindler's license, subjecting Lindler to a sobriety test, and

informing Lindler he was not to drive. (R.p.15). Then, the court held the subsection does not apply because the Highway Patrol did not plead this subsection as a defense. (R.p.16).

The circuit court erred in construing the Tort Claims Act to operate in this way. The Tort Claims Act does not codify forty separate immunities. A defendant seeking protection under the Act is asserting one thing—sovereign immunity. The Tort Claims Act waives that immunity, then sets forth various exceptions in section 15-78-60, some of which have an exception for gross negligence, and some of which do not.

Appellant's complaint alleged the highway patrolman owed Lindler a duty for a number of reasons including a voluntary undertaking and gross negligence while Lindler was in the patrolman's custody and control. (R.pp.22-23, ¶7). The Highway Patrol's answer asserted immunity under the Tort Claims Act, explaining its assertion of immunity included, but was not limited to, four of section 15-78-60's subsections. (R.p.43, ¶20).

Those four subsections may or may not apply—Appellant does not care. As long as *the facts* implicate any part of the Tort Claims Act containing gross negligence language, it does not matter. This is because the Act, through those gross negligence provisions, has acknowledged circumstances where the government is not immune from suit. Applied to the present case, Appellant would say she does not care about police protection, internal policies, or discretionary decisions, the Act recognizes liability for gross negligence when a police officer has someone in custody. If it is possible to view the facts as showing Lindler was in custody—and Appellant pled such facts precisely—the Highway Patrol may not manipulate its way around the gross negligence standard though creative pleading.

This is precisely the logic this Court and Supreme Court have applied to the Tort Claims Act's application. In *Plyler v. Burns*, the Supreme Court scrutinized how the factual allegations related to the various parts of section 15-78-60 with potential application. The defendant had asserted several exceptions, the plaintiff asked the court to consider other exceptions, and the court obliged. See 373 S.C. 637, 651-652, 647 S.E.2d 188, 196 (2007). This Court followed the same approach in *Chakrabarti v. City of Orangeburg*, applying the licensing provision in section 15-78-60 even though it was not pled. See 403 S.C. 308, 319-320, 743 S.E.2d 109, 115 (Ct. App. 2013). Courts do this to keep the Tort Claims Act from being a nullity. If a defendant could plead its way around gross negligence, the Act's waiver of sovereign immunity would be a sham.

To be fair, the circuit court did not arrive at this skewed view of the Act on its own. It read the Supreme Court's decision in *Jones v. Lott* to hold that a defendant controls which subsections of section 15-78-60 are in play. See 387 S.C. 339, 348, 692 S.E.2d 900, 904-05 (2010). Fairness also requires acknowledging this is partially accurate. A defendant is free to place provisions of the Tort Claims Act in play by pleading them.

But a defendant may not use strategic pleading to avoid subsections implicated by the facts. That interpretation has already been shown to be inconsistent with this Court's decision in *City of Orangeburg* as well as the Supreme Court's decision in *Plyler*. It is also inconsistent with the Supreme Court's decision in *Steinke v. Department of Labor, Licensing & Regulation*, 336 S.C. 373, 520 S.E.2d 142 (1999) and this Court's decision in *Jackson v. Department of Corrections*, 301 S.C. 125, 390 S.E.2d 467 (Ct. App. 1989). These are the bellweather cases explaining why the Tort Claims Act's sections are to be read together.

Jones v. Lott was decided on the two-issue rule. The petitioner lost because he failed to appeal the lower court's ruling that police protection applied. 387 S.C. at 348, 692 S.E.2d at 904. The decision admittedly has language supporting the circuit court's reasoning, but that language is dictum and is inconsistent with other decisions, which are directly on-point and binding. If any permissible view of the facts supports Lindler being in custody, the Act's subsection involving custody applies.

CONCLUSION

This Court should reverse the circuit court's directed verdict and remand this case for a new trial.

Respectfully submitted,

October 4, 2017

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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Alison Renee Lee, Circuit Court Judge

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Case No. 2014-CP-40-5663
Appellate Case No. 2016-002168

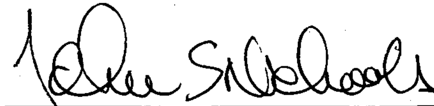
Renee Hale Shelley,
as Personal Representative
of the Estate of Michael Mann Lindler . . . Appellant/Respondent,

v.

South Carolina Highway Patrol . . . . Respondent/Appellant.

CERTIFICATE OF COMPLIANCE

Pursuant to Rule 211(a), SCACR, I certify that the *Brief of Appellant, Brief of Respondent, and Reply Brief of Appellant/Respondent* comply with the provisions of Rule 211(b), SCACR, and with the August 13, 2007, Supreme Court Order regarding personal data identifiers.



October 4, 2017

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