

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM RICHLAND COUNTY
COURT OF COMMON PLEAS

JOCELYN NEWMAN, CIRCUIT COURT JUDGE

CASE No. 2012-CP-40-02456
APPELLATE CASE No. 2017-001124

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MAR 20 2018

SC Court of Appeals

REGINALD ANDRE BLANDING, WANDA
BLANDING, AND BRITTANI BLANDING,
BY AND THROUGH HER GUARDIAN AD
LITEMS, REGINALD ANDRE BLANDING
AND WANDA BLANDING,

PLAINTIFFS,

OF WHOM REGINALD ANDRE
BLANDING WANDA BLANDING, AND
BRITTANI BLANDING ARE

APPELLANTS,

v.

LEON LOTT, IN HIS OFFICAL
CAPACITY,

RESPONDENT.

REPLY BRIEF

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ARGUMENTS

I. THE CIRCUIT COURT RELIED UPON AND INCORPORATED ITS IN LIMINE RULINGS WHEN IT ISSUED SUMMARY JUDGMENT.

The Circuit Court stated, on page eight (8) of the April 20, 2017 Order granting summary judgment, that, “Defendant points out that his renewed motion is made only after the posture of the case has been significantly modified and/or limited. As a result, if the trial were to proceed, Plaintiffs would be unable to present any evidence to the jury of the only triable issue of fact, specifically, whether Cowan acted with actual malice at the relevant times in Plaintiffs' Amended Complaint.” This is the first time these rulings were put into writing, clocked, and severed upon the parties. Additionally, the Respondent cannot claim any surprise or lack of notice that Appellant was challenging the Court’s in limine rulings as well as its grant of summary judgment. Order, at *8, April 20, 2017.

As to the Respondent’s second point, although the trial court’s in limine rulings may not have been a final ruling during a trial, once they were ruled upon and relied upon by the trial court to issue summary judgment, they became a final ruling that could be challenged within the confines of the summary judgment order. All of Appellants’ arguments and memoranda were preserved during argument even though the ruling was twofold – an evidentiary ruling in trial and a dispositive ruling in summary judgment.

II. THE CIRCUIT COURT’S RELIANCE UPON AND INCORPORATION OF ITS IN LIMINE RULINGS CREATED A SET OF FACTS THAT WERE NOT TRUE.

Once the circuit court issued its in limine ruling precluding the Blandings from showing that the invasion of the home was without merit and that the officers were attempting to cover it

up, they no longer had any evidence to show the respondent's malice and that respondent had exceeded the privilege.

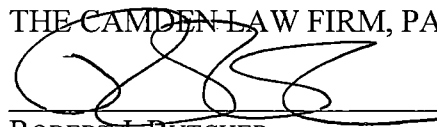
The evidence shows that no witness for respondents ever witnessed a drug buy at the Blanding's home; the Blandings testified that they did not sell or use drugs; and no drugs were found. Even the search warrant has the wrong home description on it. Plaintiffs' Response in Opposition to Defendants' Motion for Summary Judgment and Incorporated Memorandum of Law, *3, Reginald Depo, 46:18-20; 111:2-9, Exhibit 6, Exhibit 9, Memorandum in Support of Motion for Summary Judgment on Behalf of RCSD, Lott, Cowan, Johnson, Wyatt, Thompson, Cornwell, Giron, Becker, December 9, 2015, Exhibit 18.

CONCLUSION AND RELIEF REQUESTED

Appellants ask the Court to reverse the trial court's decisions and remand the matter for trial. Appellants ask the Court to hold that the trial court erred in finding that there was issue preclusion from the federal court order as (1) this was the same case, not a subsequent action, (2) the probable cause objective reasonableness test is an academic exercise that includes facts that were not true or that are inadmissible, and (3) that unfairness and injustice resulted. Appellants further ask the Court to hold that the trial court erred in granting summary judgment to the Respondent based on qualified privilege as there was no duty to speak with the press and the facts were based in large part upon fictional evidence.

Respectfully submitted,

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THE STATE OF SOUTH CAROLINA
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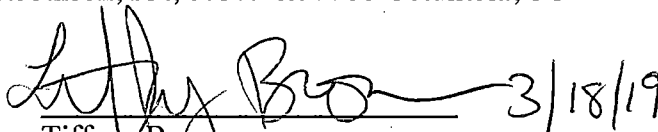
v.

LEON LOTT, IN HIS OFFICAL
CAPACITY,

RESPONDENT.

CERTIFICATE OF SERVICE

I certify that I have served the attached Reply Brief and Designation of Matter addressed to Respondent's attorneys of record, Andrew F. Lindemann (Lindemann, Davis & Hughes, P.O. Box 6923, Columbia, SC 29260) and Jasmine D. Wyman (Richard, Plowden & Robinson, PA, P.O. Box 7788 Columbia, SC 29202).


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March 19, 2018

SC Court of Appeals
Clerk of Court
South Carolina Court of Appeals
1220 Senate Street
Columbia, South Carolina 29201

RE: Reginald Andre Blanding, Wanda Blanding, and Brittani Blanding, by and through her GAL, et al v. Richland County Sheriff's Department, et al; 2012-CP-40-02456

Dear Madam Clerk:

Enclosed please find Plaintiff's original and one copy of the **Reply Brief, Designation of Matter to be Included in the Record on Appeal-Reply Brief and Certificate of Service** for filing in the above referenced case. I have also included a self-addresses, stamped envelope for the return of the additional copies.

Should you have any questions, please contact me at (803) 432-7599.

Sincerely,



Tiffany Parnell
Paralegal

Enclosures: stated above

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