

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Jocelyn Newman, Circuit Court Judge

Appellate Case No. 2017-001124
Case No. 2012-CP-40-2456

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SC Court of Appeals

Reginald Andre Blanding, Wanda Blanding, and
Brittani Blanding, by and through her Guardian ad Litema,
Reginald Andre Blanding and Wanda Blanding, Plaintiffs,

Of whom, Reginald Andre Blanding, Wanda Blanding and
Brittani Blanding are Appellants,

v.

Leon Lott, in his official capacity, Respondent.

BRIEF OF RESPONDENT

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STATEMENT OF THE CASE

This is an appeal from the dismissal of a defamation cause of action as asserted by the Appellants Reginald Andre Blanding, Wanda Blanding and Brittani Blanding (collectively referred to as "Blandings").

On April 2, 2012, this action was originally brought in state court by the Blandings against the Defendants Richland County Sheriff's Department (RCSD), Sheriff Leon Lott, and Major Chris Cowan for causes of action of negligence, negligent supervision, negligent training, trespassing, assault, battery, false imprisonment, and defamation. (R. 48-61). Thereafter, on December 23, 2013, the Blandings filed an Amended Complaint against Defendants RCSD, Sheriff Leon Lott, Major Chris Cowan, Rickey E. Johnson, Jr., Frida W. Wyatt, Adrian P. Thompson, Adam C. Cornwell, Sara N. Giron, George C. Becker, Michael C. Nawrockyj, and the Unknown Confidential Informant, for alleged deprivations of their federal constitutional rights pursuant to 42 U.S.C. § 1983 as well as the aforementioned state law causes of action. (R. 69-83). On February 4, 2014, the Defendants removed the action to the United States District Court. (R. 84-86).

On September 22, 2014, the Defendants filed their motion for summary judgment in the District Court. On August 17, 2015, and following litigation in federal court for eighteen months, United States District Court Judge J. Michelle Childs issued an Amended Order and Opinion. (R. 13-22). In her order, Judge

Childs granted the Defendants' motion for summary judgment as to all of the Blandings' federal claims and as to the state law claims of negligent supervision, negligent training, trespassing, assault, battery, and false imprisonment. The District Court declined to exercise supplemental jurisdiction over the remaining state law claims of gross negligence and defamation. The Court remanded this case to the Richland County Court of Common Pleas for further proceedings. (R. 21).

Following the remand, the then-named Defendants moved for summary judgment (R. 88-91), and on March 4, 2016, Circuit Court Judge G. Thomas Cooper, Jr. issued an order granting in part and denying in part the Defendants' motion for summary judgment. (R. 23-31). Judge Cooper dismissed the gross negligence claim with prejudice. In addition, the Defendants Cowan, Johnson, Wyatt, Thompson, Cornwell, Giron, Becker, and Nawrockyj were dismissed with prejudice and the Richland County Sheriff in his official capacity was substituted in their place. (R. 31).

On March 18, 2016, Sheriff Lott filed a motion for reconsideration pursuant to Rule 59(e), SCRCP. On April 22, 2016, Judge Cooper issued an order denying this motion.

The case was scheduled for a trial on November 28, 2016, before Circuit Court Judge Jocelyn Newman. Prior to jury selection, Judge Newman heard arguments concerning Sheriff Lott's motion in limine seeking preclusion of certain

evidence in light of the prior unappealed judgment in federal court. After extensive arguments, Judge Newman made detailed oral rulings in limine on November 29, 2016. (R. 558-563). In addition, Judge Newman advised the litigants that she had determined that a qualified privilege applied to the communication by Major Chris Cowan to the WIS-TV reporter that was the basis for the remaining defamation claim. (R. 560-561). After further colloquy between Judge Newman and counsel, Sheriff Lott made the decision to withdraw his affirmative defense of truth. (R. 582). Based thereon, the only issue that remained for adjudication was Sheriff Lott's qualified privilege defense, and more specifically, whether that privilege had been abused or exceeded by Major Cowan. Sheriff Lott was then allowed to renew his previous motion for summary judgment, and on April 20, 2017, Judge Newman issued a written order granting summary judgment to Sheriff Lott on the defamation claim. (R. 42).¹

¹ The Blandings did not object to Judge Newman's consideration of a renewed motion for summary judgment and have not appealed the procedure that was followed in the trial court. It is well settled that a trial judge may in her discretion entertain a renewed motion for summary judgment prior to trial. See, *Dorrell v. South Carolina Department of Transportation*, 361 S.C. 312, 605 S.E.2d 12, 18 (2003) ("[t]he trial judge had the discretionary authority to hear APAC's renewed motion for summary judgment. That a different trial judge previously denied the motion did not preclude APAC from renewing its motion once new evidence came to light"); *Croswell Enterprises, Inc. v. Arnold*, 309 S.C. 276, 422 S.E.2d 157, 159 (Ct. App. 1992) ("[i]f the first motion for summary judgment is unsuccessful the court has the power to permit a second motion for summary judgment prior to trial"); *PPG Industries, Inc. v. Orangeburg Paint & Decorating Center, Inc.*, 297 S.C. 176, 375 S.E.2d 331, 334 (Ct. App. 1998) ("Sanford argues that the trial court erred in reconsidering its initial denial of summary judgment because there is no such motion under the South Carolina practice. We find no merit to this contention. ... A trial judge, until final judgment, controls the trial of the case before him, and as a general rule may amend, correct, modify, or otherwise change its findings of fact and conclusions of law before entry of judgment or decree").

The Blandings did not file a motion for reconsideration under Rule 59(e), SCRPC, but rather filed a timely appeal to this Court.

STATEMENT OF FACTS

The Blandings' claims all arise from an incident on October 20, 2011, when Richland County Sheriff's Department ("RCSD") investigators searched the Blandings' residence pursuant to a search warrant. (R. 14).

Complaint as to Drug Activity

On Friday, October 14, 2011, the RCSD Drug Suppression Team ("DST") received a written complaint from then-County Councilperson Val Hutchinson about illegal narcotics sales taking place at two mobile homes, both of which are in the vicinity of the Blandings' residence. (R. 14). Senior Deputy Ricky Johnson was assigned to and directed the investigation into Hutchinson's complaint. (R. 15).

DST Narcotics Investigation / "Knock and Talk"

Deputy Johnson began collecting information with respect to the two mobile homes, and on October 17, 2011, Deputy Johnson and other DST members went to the locations to conduct a "knock and talk" investigation. (R. 15, 299). This process involved uniformed officers making contact with the individuals at both mobile home locations and addressing concerns presented in Hutchinson's complaint. No arrests were made at this point, but the officers interacted with individuals at the mobile homes, some of which were in possession of crack pipes. (R. 15, 299, 302).

DST Narcotics Investigation / Controlled Purchase

On Tuesday, October 18, 2011, the DST initiated a narcotics controlled purchase investigation in the neighborhood. Johnson employed his confidential informant in this investigation. At that point, the informant had been involved in approximately thirty narcotics investigations and was considered to be extremely trustworthy given his past results. (R. 15, 297).

The informant was directed to inspect what drug sales or activity might be taking place at the mobile homes and pursue the purchase of drugs. The informant returned twenty to thirty minutes later. (R. 15).

The informant's debriefing yielded the following: The informant had a conversation with a male on a bicycle concerning the purchase of narcotics. The informant then made a purchase on the back porch of the residence at 402 Gibbs Road from "a black male named Peanut." The informant also produced a white, rock-like substance, which he confirmed that he purchased from "Peanut." (R. 15).

The informant then specifically pointed out the location where the purchase was made to Deputies Johnson and Cornwell. The substance was field tested and returned positive results for cocaine base. (R. 15).

Search Warrant Preparation and Issuance

The location of the purchase was cross-referenced using Richland County GIS mapping, which returned a location of 402 Gibbs Road. (R. 15). Deputy Johnson additionally ascertained that Blanding was the last name of the owner of

the house. Deputy Johnson thereafter prepared a search warrant affidavit and associated warrant paperwork for the search of the house. (R. 15-16).

On October 20, 2011, Deputy Johnson then proceeded to Richland County Magistrate Judge Caroline W. Streater who issued the search warrant at about 12:20 p.m. The search warrant was primarily obtained for the search of the premises itself, rather than the occupants. (R. 16).

Search Warrant Execution

Shortly after its issuance, the search warrant was executed at 402 Gibbs Road. Once the investigators discovered the home was free of occupants, they left momentarily to allow Nawrockyj, the K-9 officer and his canine to enter and conduct a search. (R. 16). Meanwhile, Brittani Blanding and her female cousin, Taylor Blanding, both approximately seventeen years of age, finished high school classes for the day and returned to 402 Gibbs Road. (R. 16). The officers approached Brittani and questioned her, as well as told her to contact her parents to have them return home as soon as practicable. (R. 16). The search of the premises ultimately yielded negative results. However, during the execution of the search warrant, the investigators did learn that "Peanut" (positively identified as Gregory Samuel) was actually Brittani's cousin. (R. 20).

WIS-TV News Investigation and Report

Within an hour after Wanda Blanding returned home following the execution of the search warrant, she contacted two local television news stations.

Mrs. Blanding coordinated and invited the television news media into her house and permitted them to publicize personal information on television, including hers and her husband's names, their places of employment, and information related to her minor children. Mrs. Blanding allowed Jody Barr, an investigative reporter with WIS-TV, to enter her house with a news camera and film the interior. WIS-TV then produced and aired a news segment depicting the condition of each room following the execution of the search warrant. (R. 27).

As part of this news segment, Major Chris Cowan, the Public Information Officer for the Sheriff, was questioned by the WIS-TV reporter as to the relevant events. Major Cowan's knowledge of the execution of the search warrant and related events was based on information learned from the RCSD investigators. Specifically, Major Cowan stated to the reporter as follows: "The drugs that we purchased out of that home -- we purchased from a family member of that home -- we purchased the drugs out of the home." That is the statement that is the subject of the Blandings' defamation claim. (R. 27).

ARGUMENTS

From the outset of addressing the Blandings' appeal, it is important to focus on what claims and issues remain in controversy for appeal. A majority of the Blandings' causes of action were dismissed by United States District Judge J. Michelle Childs, with only the state law claims for gross negligence and defamation remanded to state court. (R. 21). After remand, Circuit Court Judge G. Thomas Cooper, Jr. heard Sheriff Leon Lott's motion for summary judgment and dismissed the gross negligence claim in his order filed March 4, 2016. (R. 31). The remaining defamation claim proceeded to trial, and the case was called for trial before Circuit Court Judge Jocelyn Newman on November 28, 2016. Judge Newman entertained and granted a motion in limine prior to jury selection.

During those pre-trial proceedings, Judge Newman also ruled as a matter of law that Sheriff Lott was entitled to a qualified privilege. (R. 560-561). Based thereon, and as a result of Lott's withdrawal of his truth defense, the sole issue that remained for trial was whether Major Chris Cowan exceeded the scope of the qualified privilege or otherwise acted with actual malice. Judge Newman, at that point, entertained and granted a renewed motion for summary judgment, finding that the Blandings were unable to cite to any evidence to overcome the qualified privilege.

The Blandings never filed a motion for reconsideration under Rule 59(e) and instead filed a Notice of Appeal that identifies Judge Newman's order granting the renewed motion for summary judgment as the only order on appeal. The Blandings have not appealed from Judge Cooper's summary judgment order or from the evidentiary rulings made orally by Judge Newman in limine.

In their opening brief, the Blandings do appear to raise an issue with Judge Newman's in limine rulings. They also appeal her ruling as a matter of law that Major Cowan's statement to the WIS-TV reporter is subject to a qualified privilege. They do not challenge Judge Newman's ruling that there is no evidence that Cowan acted with actual malice, but they do appear to argue in a largely conclusory manner that the scope of the qualified privilege was exceeded.

I. The Circuit Court's rulings in limine on certain evidentiary issues are actually not ripe for appeal and are not material to the dismissal of the remaining defamation claim on the basis of qualified privilege.

As an initial issue for appeal, the Blandings make a fairly convoluted argument that Judge Newman erred in granting Sheriff Lott's motion in limine and excluding evidence as described in that motion, including evidence pertaining to the procurement and validity of the search warrant as well as evidence related to the execution of the search warrant by Sheriff's deputies at the Blandings' residence. Those factual issues were deemed to have been preclusively determined

by the summary judgment orders entered by Judge Childs in federal court and Judge Cooper on remand to state court. Moreover, Judge Newman determined that such evidence was not relevant to the adjudication of the remaining defamation claim.

The Blandings are challenging the evidentiary rulings in limine based on arguments (1) that a probable cause determination may be based on non-admissible evidence including hearsay and (2) that the summary judgment standards are different under federal and state law. The Blandings also seem to question whether the factual determinations that support the summary judgment entered on the federal claims and many of the state claims in federal court are properly subject to collateral estoppel and/or the law of the case doctrines.

Sheriff Lott submits, however, that this Court need not address those issues on the merits for a number of reasons.

First, as mentioned above, the Blandings did not include Judge Newman's evidentiary rulings in limine in their Notice of Appeal. As a result, the appeal from those oral rulings is not perfected.

Second, even where a motion in limine is granted, it is not a final ruling on the admissibility of evidence. Instead, motions in limine "are granted to prevent prejudicial matter from being revealed to the jury, but do not constitute final rulings on the admissibility of evidence." *State v. Floyd*, 295 S.C. 518, 369 S.E.2d 842, 843 (1988). An evidentiary ruling in limine "remains subject to change based

upon developments during trial." *Id.* In fact, "[a] motion in limine, even if granted, does not remove the need for a contemporaneous objection at trial." *Parr v. Gaines*, 309 S.C. 477, 424 S.E.2d 515, 518 (Ct. App. 1992). In the present case, there was no trial held, and as a result, there was no final ruling on the admissibility of any evidence that would be preserved for an appeal.

Third, and perhaps most importantly, the rulings in limine were not directed to and have no effect whatsoever on the qualified privilege defense on which this case was ultimately adjudicated by Judge Newman on the renewed motion for summary judgment. In adjudicating a defamation claim based upon a privilege defense, the court assumes that the statement at issue was false and defamatory and then addresses initially whether the statement is subject to a privilege.² Because the defamatory nature of the statement by Major Chris Cowan was assumed, the rulings in limine had no effect on the ultimate adjudication and dismissal of the defamation claim.

Fourth, and as a corollary to the preceding point, the Blandings have not identified in their brief any evidence that was excluded by the rulings in limine that resulted in any prejudice to them. As discussed above, the Blandings' sole remaining claim was their defamation claim and that claim was adjudicated based

² In this respect, the assertion of a privilege is comparable to the assertion of an immunity defense. *See, Rayfield v. South Carolina Department of Corrections*, 297 S.C. 95, 374 S.E.2d 910, 916 (Ct. App. 1988) ("[o]ne who pleads immunity, conditionally admits the plaintiff's case, but asserts his immunity as a bar to liability").

on a qualified privilege defense. The Blandings have not cited any evidentiary ruling by Judge Newman that prevented them from presenting the facts they needed to oppose the qualified privilege defense on which the case was finally determined.

Nonetheless, even if the Court chooses to address the Blandings' arguments on the merits, the rulings in limine should be affirmed. The Blandings' challenges on appeal lack merit.

First, Judge Newman did not rely on the factual determinations from the summary judgment orders to determine whether Cowan's statement to the WIS-TV reporter was factually accurate. Instead, she relied on those factual determinations to conclude that the search warrant was valid, was supported by probable cause, and was executed in a constitutional and lawful manner; yet, none of those facts were even relevant or material to the adjudication of the qualified privilege defense. At any rate, Judge Newman's in limine rulings were based on an appropriate application of collateral estoppel and the law of case doctrines. *See, Jinks v. Richland County*, 355 S.C. 341, 585 S.E.2d 281, 285 (2003) ("[c]ollateral estoppel prevents a party from litigating in a subsequent suit an issue actually and necessarily litigated and determined in a prior action"); *Argoe v. Three Rivers Behavioral Health, LLC*, 419 S.C. 459, 799 S.E.2d 73, 75 (2011) ("[t]he law of the case applies both to those issues explicitly decided and to those issues which were necessarily decided in the former case").

Second, the fact that the preclusive federal court order is an order granting summary judgment makes no difference so long as it is a final judgment adjudicating the merits. *See, Nelson v. QHG of South Carolina, Inc.*, 362 S.C. 421, 608 S.E.2d 855 (2005). Likewise, a federal court summary judgment order is subject to collateral estoppel and the law of the case doctrines, just as a summary judgment order issued by a state court is subject to those doctrines. The existence of differing summary judgment standards under Rule 56 does not change that or prohibit the application of those doctrines. Certainly, the Blandings have not cited any authority to support their position.

II. The Circuit Court correctly ruled that the communication by Major Chris Cowan to the WIS-TV reporter regarding the execution of the search warrant at the Blandings' residence was properly subject to a qualified privilege, the scope of which was not exceeded or abused.

The Blandings also contend on appeal that Judge Newman erred in granting summary judgment on their defamation claim by finding that a qualified privilege applies to the statement made by Major Chris Cowan to the WIS-TV reporter. Although their arguments are fairly conclusory and unclear, the Blandings appear to make two arguments, neither of which have merit. First, they claim that South Carolina law does not recognize a qualified privilege where a "public affairs officer speaks with the press." *See, Appellants' Brief*, p. 34. Second, they argue that whether Major Chris Cowan's statement -- "the drugs were purchased from that

home -- we purchased from a family member out of the house" -- was limited in purpose and scope was a jury question.

It is well settled that "the question whether an occasion gives rise to a qualified or conditional privilege is one of law for the court." *Murray v. Holnam, Inc.*, 344 S.C. 129, 542 S.E.2d 743, 749 (Ct. App. 2001). "It is the duty of the trial judge to determine if the statement is privileged." *Id.*

"The tort of defamation permits a plaintiff to recover for injury to his reputation caused by the defendant's communication to others of a false message about plaintiff." *McBride v. School District of Greenville County*, 389 S.C. 546, 698 S.E.2d 845, 852 (Ct. App. 2010). In general terms, the law on qualified privilege provides that "one who publishes defamatory matter concerning another is not liable for the publication if (1) the matter is published upon an occasion that makes it conditionally privileged, and (2) the privilege is not abused." *Murray*, 542 S.E.2d at 748. This Court has explained:

In determining whether or not the communication was qualifiedly privileged, regard must be had to the occasion and to the relationship of the parties. When one has an interest in the subject matter of a communication, and the person (or persons) to whom it is made has a corresponding interest, every communication honestly made, in order to protect such common interest, is privileged by reason of the occasion. The statement, however, must be such as the occasion warrants, and must be made in good faith to protect the interests of the one who makes it and the persons to whom it is addressed."

Id., citing *Bell v. Bank of Abbeville*, 208 S.C. 490, 38 S.E.2d 641, 643 (1946).

Under South Carolina law, a qualified privilege is not limited to employment-related communications as the Blandings seem to argue -- although that is a frequent context for the application of a qualified privilege. A qualified privilege also often arises where matters of public interest and concern are the subject of discussion. Contrary to the Blandings' argument, South Carolina law has recognized that a qualified privilege applies in the context where the speaker provides "fair comment" on "matters of public interest and concern ... as long as he does so fairly and with an honest purpose." *Oswalt v. State-Record Co.*, 250 S.C. 429, 158 S.E.2d 204, 206 (1967) (recognizing a "fair comment" qualified privilege). *See also, Fleming v. Rose*, 350 S.C. 488, 567 S.E.2d 857 (2002) (press release by Department of Public Safety was subject to fair comment privilege). Similarly, there is a qualified privilege "to publish fair and substantially accurate reports of judicial and other governmental proceedings without incurring liability." *West v. Morehead*, 396 S.C. 1, 720 S.E.2d 495, 498 (Ct. App. 2011). *White v. Wilkerson*, 328 S.C. 179, 493 S.E.2d 345, 348 (1997) ("[t]he fair report privilege protects fair and accurate reports of judicial records and proceedings and other official acts, reports, and records"); *Padgett v. Sun News*, 278 S.C. 26, 31, 292 S.E.2d 30, 33 (1982) (fair and accurate reports based on public records were privileged). Hence, reports by law enforcement to the news media on an issue of public or community interest have been historically subject to a qualified privilege.

In the case at bar, Judge Newman ruled as a matter of law that Major Chris Cowan's statement to the WIS-TV reporter was subject to a qualified privilege. In this instance, Cowan was requested for comment by the reporter who was investigating the execution of a search warrant at the Blandings' residence *specifically at the instigation of the Blandings themselves.*

In reaching her decision, Judge Newman looked at "the essential elements of a qualifiedly privileged communication" which she described as follows: "(1) good faith; (2) an interest to be upheld; (3) a statement limited in its scope to this purpose; (4) a proper occasion; and (5) publication in a proper manner and to proper parties only." (R. 38). In her order, Judge Newman addressed each of those elements based upon uncontroverted facts. She found that the communication by Major Cowan was made in good faith. (R. 39). She also concluded that the communication was made in response to a media request for information and thus was a subject of public interest. (R. 39). As indicated, this was a television news investigation that was initiated by the Blandings who first contacted and raised the issue with WIS-TV, then provided identifying information as part of the report and allowed for the filming of their residence. Both Cowan and the WIS-TV reporter thus had interests in the subject matter of the communication. The information was conveyed by Major Cowan fairly and honestly. He had obtained what he understood to be correct information from appropriate persons within the Sheriff's Department about the execution of the search warrant and provided that

information to the reporter in a direct and concise manner. The statement was limited in its scope to the reporter's request for information and was made in a proper manner on a proper occasion. It bears repeating that the WIS-TV news investigation was initiated by the Blandings, and Major Cowan was only responding to media questions posed as a result of that investigation. Based on the underlying facts, Judge Newman correctly ruled that the communication was subject to a qualified privilege.

Having found a qualified privilege applies, the burden then shifted to the Blandings to show that Major Cowan acted with actual malice meaning ill will towards the Blandings or that the scope of the privilege was exceeded by Cowan. *See, Swinton Creek Nursery v. Edisto Farm Credit*, 334 S.C. 469, 514 S.E.2d 126, 134 (1999) ("[w]here the occasion gives rise to a qualified privilege, there is a prima facie presumption to rebut the inference of malice, and the burden is on the plaintiff to show actual malice or that the scope of the privilege has been exceeded"). The Blandings failed to meet that burden of proof.

In her order, Judge Newman found "there was no evidence showing Cowan was actuated by ill will or malice in making his statement to the media." (R. 42). She further explained that "counsel for Plaintiffs were unable to point to any competent evidence ... to demonstrate actual malice on the part of Cowan." (R. 42). On appeal, the Blandings do not challenge this ruling.

Instead, the Blandings assert that "it was for a jury to decide whether

Cowan's statement ... was limited in scope and purpose." *See*, Appellants' Brief, p. 33. They claim that there is an "abundance of evidence" that "Cowan exceeded his privilege." *See*, Appellants' Brief, p. 33. Yet, no such evidence is cited other than arguments that the sheriff's deputies executed the search warrant at the wrong residence. The Blandings insist that Major Cowan had no "duty or obligation to speak with the media about this particular incident." *See*, Appellants' Brief, p. 33. Yet, the media was investigating the execution of this search warrant *at the request of the Blandings themselves* and sought information from the Sheriff's Department to address an issue of public interest and concern. In short, there is no factual basis for the Blandings' assertion on appeal that Major Cowan exceeded the scope of the qualified privilege. *See*, *Woodward v. South Carolina Farm Bureau Ins. Co.*, 277 S.C. 29, 282 S.E.2d 599, 601 (1981) ("[w]hile abuse of privilege is ordinarily an issue for the jury ... in the absence of a controversy as to the facts ... it is for the court to say in a given instance whether or not the privilege has been abused or exceeded"). *See also*, *Harris v. Tietex International Ltd.*, 417 S.C. 533, 790 S.E.2d 411, 416 (Ct. App. 2016).

In sum, the communication by Major Chris Cowan to the WIS-TV reporter in response to a request for information as part of a news investigation that was initiated by the Blandings themselves was correctly determined by Judge Newman to be subject to a qualified privilege under South Carolina law. The Blandings failed to present evidence that Cowan exceeded the scope of that privilege.

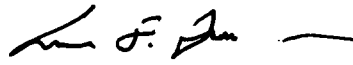
Likewise, there was no evidence that Cowan was motivated by actual malice. Consequently, the summary judgment granted to Sheriff Lott on the Blandings' defamation claim should be affirmed.

CONCLUSION

Based on the foregoing discussion and analysis, the Respondent Leon Lott respectfully requests that this Court affirm the order of Circuit Court Judge Jocelyn Newman granting summary judgment to the Respondent.

Respectfully submitted,

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The undersigned counsel for the Respondent Leon Lott certifies that the Final Brief of Respondent complies with Rule 211(b), SCACR.

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CERTIFICATE OF COMPLIANCE

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The undersigned counsel for the Respondent Leon Lott certifies that the Final Brief of Respondent complies with the Supreme Court's Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings, issued April 15, 2014.

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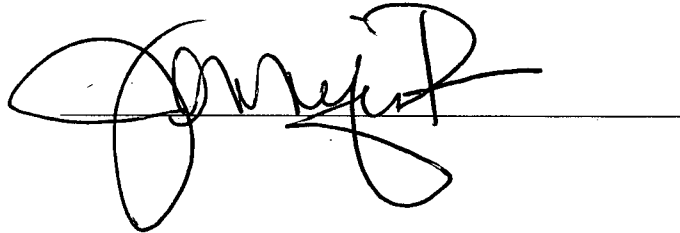
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SC Court of Appeals

The undersigned employee of Lindemann, Davis & Hughes, P.A., counsel for the Respondent Leon Lott, does hereby certify that service of the **Final Brief of Respondent** was made upon all counsel of record by placing copies in the United States Mail, first class postage prepaid, at the below listed addresses clearly indicated on said envelopes this the 5th day of July 2018:

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A handwritten signature in black ink, appearing to read "R. D. Garfield", is written over a horizontal line.