

THE STATE OF SOUTH CAROLINA
In The Court of Appeals
[In The Supreme Court]

APPEAL FROM BERKELEY COUNTY
Court of Common Pleas

Jennifer B. McCoy, Circuit Court Judge

Case No. 2019-000-507

Melvina Robinson

Appellant

Walmart Stores, Inc.,
Walmart Neighborhood Market,
Walmart Stores East LP; and
Walmart Supercenter

v.

Respondent

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SC Court of Appeals

REPLY BRIEF AND
OPEN ARGUMENT OF APPELLANT
PROOF OF SERVICE

Melvina Robinson
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Appellant

Under Rule 267(e), SCACR, the cover of the final briefs should be the following colors: brief of appellant - blue; brief of respondent - red; reply brief - gray; and amicus curiae or intervenor green. Rule 33; Rule 32; Rule 35, SCACR

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RESPONSE OF ISSUES PRESENTED FOR REVIEW

This jury trial on February 26, and 27 have left this case with lots of unanswered question and I would like to request for an Open Argument. On July 3, 2018 Attorney Kelly was supposed to get back with us about getting the deposition with Walmart's Management Ms. Heather Mr. Gage and that never happened then my Attorney had a deposition of questions off the record with Mr. Gage and I was never addressed about what was discussed. I did requested new evidence consisted with emails from conversation that will validated information which the jury show have received and it would have made the case more toward the burden of the proof which would have should the preponderance evidence would have been favorable. During the deposition a question was asked did I filed a charge of discrimination which was never true (depo; line 10-23) I dismissed Attorney David because he told me he used to worked for Walmart's 18 wheeler truck drivers and I witnessed he did not represent the case with no concerned of helping me with the case because there were Walmart's employees I have requested for him to subpoena and it was ignored so this is why I would like to request Open Argument

SUMMARY OF THE ARGUMENT

On Tuesday, February 26, 2019, the jury in this case returned verdicts for the Defendant on Plaintiff's cause of action for defamation and false imprisonment and this Court issued its Order accordingly. See Exhibits A and B attached hereto. Pursuant to Rule 59, New Trials; Amendment of Judgments, of the South Carolina Rules of Civil Procedure ("SCRCP"), Plaintiff moves for a new trial on the following grounds; Rule 32 SCACR; Rule 33 SCACR; Rule 25 SCACR Standard of Review Though Wal-Mart's Assistance Managers Ms. Heather and Mr. Gage Loss Prevention correctly state the standard of review and it was never used, Wal-Mart never addressed the fundamental problem during the conduct of the Store Procedures (Trial pg. 18 line 8-15)

ARGUMENTS

1. In defamation action, "actual malice" can mean the defendant acted recklessly or wantonly, i.e., with conscious disregard of plaintiff's rights, which requires that the defendant be chargeable with consciousness of his wrongdoing). It is ordinarily for the jury to determine whether or not the privilege has been abused or exceeded. *Woodward v. South Carolina Farm Bureau Insurance Co.*, 277 S.C. 29, 282 S.E.2d599 (1981).

2. The tort of false imprisonment consists in the "(1) intentional and (2) unjustified (3) confinement of a person, (4) directly or indirectly (5) of which the person confined is conscious or is harmed by such confinement." *Noel v. Town of Plymouth*, 895 F. Supp. 346, 354 (D.Mass., 1995); *See* Restatement (Second), Torts § 35 (1965); *see also Wax v. McGrath*, 255 Mass. 340, 342, 151 N.E. 317, 318 (1926) (unlawful restraint by force or threat constitutes false imprisonment).

CONCLUSION

For the reasons stated, Appellant respectfully request that this Honorable Court affirm Open Argument and reverse the judgment of the circuit court, and new trial

Respectfully submitted,

December 30, 2019

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Certificate of Service

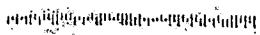
To Whom It may Concern
The Reply Brief and Open Argument
Request was sent off on December
30, 2019 To

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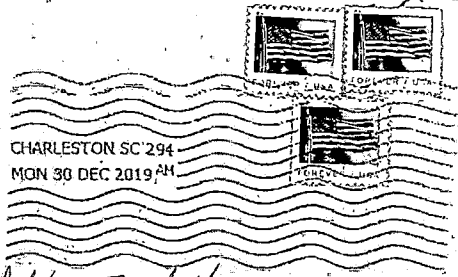
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