

ELECTRONICALLY FILED - 2020 Mar 10 10:32 AM - RICHLAND - COMMON PLEAS - CASE#2017CP4003166

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF RICHLAND

FOR THE FIFTH JUDICIAL CIRCUIT

Bridgett Taylor,

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Civil Action No. 2017CP4003166

Plaintiff,

Apr 09 2020

v.

SC Court of Appeals

ORDER DENYING DEFENDANT'S
MOTION TO ALTER OR AMEND ORDER

Richland County Sheriff's Department,

Defendant.

This matter came before the Court upon "Motion to Alter or Amend Order and/or Motion for Reconsideration on Behalf of Defendant," which was filed on February 13, 2020. The Court decides this matter without oral argument, pursuant to Rule 59(f), SCRPC.¹

For the reasons set forth below, Defendant's motion is DENIED.

FACTUAL AND PROCEDURAL BACKGROUND

Plaintiff filed the Complaint in this action on November 3, 2014,² pursuant to the South Carolina Tort Claims Act, S.C. CODE ANN. §§15-78-10 to -200 (1976, as amended). She alleges that Defendant, through its employees, is liable for gross negligence which occurred during an incident on December 19, 2013. On that date, Defendant detonated an explosive device at Plaintiff's home, causing her physical injuries.

A jury trial was commenced on March 13, 2019. At the close of Plaintiff's case-in-chief, Defendant moved for a directed verdict pursuant to Rule 50, SCRPC. After hearing the arguments

¹ Although Defendant requested an oral argument on this motion, the Court deems it unnecessary. See, e.g., *Pollard v. Cnty. of Florence*, 314 S.C. 397, 401, 444 S.E.2d 534, 536 (Ct. App. 1994) (rejecting argument that the circuit court committed reversible error in denying motion to alter or amend the judgment without first conducting a hearing).

² The original action, 2014CP4006934, was dismissed on September 23, 2016, pursuant to Rule 40(j), SCRPC. It was restored, using the current civil action number, on May 24, 2017.

of all counsel, the Court granted Defendant's motion and dismissed the case. In doing so, the Court relied on Plaintiff's trial testimony, elicited on cross-examination, that both the front door and screen door to her home were open when the device was detonated and that she spoke to Defendant's employee and made eye contact with him immediately prior to the blast. The Court determined that, in light of this testimony, Plaintiff alleged intentional, malicious conduct on the part of Defendant's employee. Therefore, Defendant would be immune from this action pursuant to S.C. CODE ANN. §15-78-60(17) (1976, as amended).

On March 22, 2019, Plaintiff filed a Motion to Reconsider, asking the Court to re-evaluate and set aside its Order granting Defendant's motion for directed verdict. After considering the parties' written arguments, the Court agreed with Plaintiff. By Order dated February 3, 2020, Plaintiff's Motion to Reconsider was granted, and a new trial was ordered.

Defendant then filed the instant Motion to Alter or Amend.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

In its motion, Defendant contends that, in granting Plaintiff a new trial, the Court failed to consider sovereign immunity provided by S.C. CODE ANN. §§15-78-60(4), -60(6) and -60(17) (1976, as amended); issue preclusion and/or collateral estoppel; and Plaintiff's failure to prove gross negligence. The Court disagrees.

Motions for reconsideration give courts the opportunity to correct their own errors. *See, e.g., Elam v. S.C. Dept. of Transp.*, 361 S.C. 9, 22, 602 S.E.2d 772, 779 (2004) (citation omitted). One such error occurs when a trial court erroneously directs a verdict in favor of one party or another. "When considering directed verdict motions, neither the trial court nor the appellate court has authority to decide credibility issues or to resolve conflicts in the testimony or evidence." *Harvey v. Strickland*, 350 S.C. 303, 308-09, 566 S.E.2d 529, 532 (2002) (quoting *Creech v. S.C.*

Wildlife and Marine Resources Dep't, 328 S.C. 24, 491 S.E.2d 571 (1997)). Another error could occur when one trial judge overrules another. See, e.g., *Shirley's Iron Works, Inc. v. City of Union*, 403 S.C. 560, 573, 743 S.E.2d 778, 785 (2013) (citing *Charleston Cnty. Dep't of Soc. Servs. v. Father*, 317 S.C. 283, 288, 454 S.E.2d 307, 310 (1995)) ("This State has a long-standing rule that one judge of the same court cannot overrule another.").

Plaintiff is correct that the Court erred in granting Defendant's motion for directed verdict. While it is correct that Plaintiff testified that Defendant's actions amounted to an intentional wrongdoing, it is also correct that Plaintiff testified (this time during her re-direct examination) that she was standing behind a closed door when the explosive was detonated. In addition, other witnesses' testimony suggested that Plaintiff was positioned behind the door. It is improper for the Court to weigh the evidence in ruling on a motion for directed verdict. See, e.g., *Daves v. Cleary*, 355 S.C. 216, 229, 584 S.E.2d 423, 429 (Ct. App. 2003) (directed verdict "should not be granted where the "evidence yields more than one inference or its inference is in doubt"). Therefore, Plaintiff must be afforded a new trial.

Plaintiff is also correct in her argument that this Court improperly overruled the decision of another Circuit Court judge. Specifically, in denying Defendant's motion for summary judgment on January 23, 2019, Judge Manning disagreed with Defendant's arguments on the issues of sovereign immunity, *res judicata*, and collateral estoppel. For the trial court to have found otherwise (to the extent that it did) was inappropriate.

Finally, the Court agrees with Plaintiff's contention that Defendant has incorrectly characterized the Form 4 Order (which granted Plaintiff's Motion to Reconsider). While the Court did not specifically address each of the arguments made by Defendant, it is clear that each of them was rejected. By ordering a new trial, the Court corrected its own errors and rejected Defendant's

previous arguments. It is implicit in its Order that the Court finds, based on the evidence presented at the previous trial, that Defendant is not entitled to sovereign immunity and cannot claim the "protections" of collateral estoppel or *res judicata*.

IT IS, THEREFORE, ORDERED that the Motion to Alter or Amend Order and/or Motion for Reconsideration on Behalf of Defendant is DENIED.

AND IT IS SO ORDERED.



Richland Common Pleas

Case Caption: Bridgett Taylor vs Richland County Sheriffs Dept
Case Number: 2017CP4003166
Type: Order/Other

So Ordered

Jocelyn Newman

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