

STATE OF SOUTH CAROLINA)
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COUNTY OF BERKELEY)
)
)
Stephanie Michelle Gardner,)
)
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Plaintiff,)
)
v.)
)
Berkeley County Sheriff's Office, and)
Town of Moncks Corner,)
)
Defendants.)
_____)

IN THE COURT OF COMMON PLEAS
CASE NO. 2020-CP-08-00773

**ORDER DENYING PLAINTIFF'S
MOTIONS TO RECONSIDER**



This matter came before the Court by way of Plaintiff's Motions for Reconsideration, filed pursuant to S.C.R. Civ. P. 59(e) on May 6, 2021. Through the Motion, Plaintiff seeks reconsideration of this Court's April 27, 2021, Orders Granting Defendants' Motions for Summary Judgment. After careful consideration of this matter, the Court is DENYING Plaintiff's Motion to Reconsider Summary Judgment in Favor of Town of Moncks Corner and Plaintiff's Motion to Reconsider Summary Judgment in Favor of Berkeley County Sheriff's Office ("BCSO").

STANDARD OF REVIEW

While "Rule 59(e) does not itself provide a standard under which . . . court[s] may grant a motion to alter or amend a judgment," South Carolina District Courts and the Fourth Circuit have held that "there are three grounds for amending an earlier judgment: (1) to accommodate an intervening change in controlling law; (2) to account for new evidence not available at trial; or (3) to correct a clear error of law or prevent manifest injustice." *Pac. Ins. Co. v. Am. Nat'l Fire Ins. Co.*, 148 F.3d 396, 403 (4th Cir. 1998); *see also Tetrev v. Pride Int'l, Inc.*, 243 F.R.D. 246, 248 (D.S.C. 2007). Due to the "interests in finality and conservation of judicial resources," the granting of a Rule 59(e) motion "is an extraordinary remedy which should be used sparingly." *Rouse v.*

Nielsen, 851 F. Supp. 717, 734 (D.S.C. 1994) (citing *Penn. Ins. Guar. Ass'n v. Trabosh*, 812 F. Supp. 277, 280 (E.D. Pa. 1992)); *Pac. Ins. Co.*, 148 F.3d. at 403 (quoting 11 Wright et al., *Federal Practice and Procedure* § 2810.1, at 124 (2d ed. 1995)). Thus, Rule 59(e) permits a court to correct its own errors, “sparing the parties and the appellate courts the burden of unnecessary appellate proceedings.” *Pac. Ins. Co.*, 148 F.3d. at 403 (quoting *Russell v. Delco Remy Div. of Gen. Motors Corp.*, 51 F.3d 746, 749 (7th Cir. 1995). However, Rule 59(e) motions ““are not at the disposal of an unsuccessful party to “rehash” the same arguments and facts previously presented.”” *Rouse*, 851 F. Supp at 734 (quoting *Keyes v. Nat’l R.R. Passenger Corp.*, 766 F. Supp. 277, 280 (E.D. Pa. 1991)).

DISCUSSION

The Court has reviewed Plaintiff’s Memoranda in Support of her Motions and finds no valid basis for granting her Motions to Reconsider. Plaintiff reiterates arguments previously made and considered by the Court in its Orders Granting Summary Judgment in Favor of BCSO and the Town of Moncks Corner.

I. Plaintiff’s Motion to Reconsider Summary Judgment in Favor of Town of Moncks Corner

Plaintiff alleges that the Court misapprehended the law of constructive possession in its Order and provided the Court with a copy of the South Carolina Supreme Court’s decision in *State v. Stewart*, 433 S.C. 382, 858 S.E.2d 808 (2021). While the Court agrees with Plaintiff that *Stewart* is instructive on the law of constructive possession in South Carolina, *Stewart* is procedurally distinctive from Plaintiff’s case. Similar to *State v. Muhammad*, 338 S.C. 22, 524 S.E.2d 637 (Ct. App. 1999), cited by the Court in its April 27, 2021, Order, *Stewart* decided an appeal from a conviction for construction possession which requires *proof beyond a reasonable doubt* and is therefore instructive only to the extent that it defines the criminal offense. However, as stated in

the Court's Order, this case deals with the *probable cause standard* which only required Detective Barlow to show a good faith belief that Plaintiff constructively possessed the drugs under the circumstances he observed prior to her arrest. In its previous Order, the Court then set forth the circumstances giving Detective Barlow probable cause to believe Plaintiff constructively possessed the drugs.

II. Plaintiff's Motion to Reconsider Summary Judgment in Favor of BCSO

Claim 1: "That the Court's decision is based on a misapprehension of the law of constructive possession . . .": See the Court's ruling above.

Claim 2: "The Court failed to view the facts and inference in favor of the non-moving party in ruling that [BCSO] is not responsible for the actions of Barlow": The Court considered and ruled upon this issue in its April 27, 2021, Order. Plaintiff has offered no change in controlling law, no new evidence previously unavailable, and no evidence of a clear error in law which would result in manifest injustice. Thus, the Court finds no basis upon which to grant the Motion for Reconsideration.

Claim 3: "The Court erred in granting summary judgment on the false arrest claim because Plaintiff was arrested without a warrant by Barlow acting on its behalf": Plaintiff provided no argument for this claim. Thus, the Court finds no basis upon which to grant the Motion for Reconsideration on this ground.

Claim 4: "An arrest and prosecution without probable cause is not the institution or a judicial proceeding under the tort claims act": As the Court has already ruled that Detective Barlow did have probable cause to believe that Plaintiff constructively possessed the drugs, Plaintiff's argument that her arrest and prosecution do not fall under the immunity provided by the

Tort Claims Act necessarily fails. Accordingly, this argument provides no basis for granting Plaintiff's Motion to Reconsider.

IT IS THEREFORE ORDERED that Plaintiff's Motion to Reconsider Summary Judgment in Favor of Town of Moncks Corner is DENIED.

IT IS FURTHER ORDERED that Plaintiff's Motion to Reconsider Summary Judgment in Favor of Berkeley County Sheriff's Office is DENIED.

IT IS SO ORDERED!

_____, 2021
Orangeburg, South Carolina

Edgar W. Dickson
Presiding Judge, First Judicial Circuit



Berkeley Common Pleas

Case Caption: Stephanie Michelle Gardner VS Berkeley County Sheriff'S Office ,
defendant, et al
Case Number: 2020CP0800773
Type: Order/Other

So Ordered

s/ Edgar W. Dickson #2153