No. 26-____

IN THE

Supreme Court of the United States

RANDALL WILLIAMS, PERSONAL REPRESENTATIVE OF THE ESTATES OF SHANICE R. DANTZLER-WILLIAMS AND MIRANDA R. DANTZLER-WILLIAMS; BETTY SIMMONS, PERSONAL REPRESENTATIVE OF THE ESTATE OF STEPHANIE DANTZLER,

Petitioners,

v.

CHARLESTON COUNTY SHERIFF'S OFFICE,

Respondent,

and

CHARLESTON COUNTY; EMILY PELLETIER; CLINTON SACKS,

Defendants.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Fourth Circuit

PETITION FOR A WRIT OF CERTIORARI

RICHARD A. SIMPSON
ALEX C. BOOTA
UNC SUPREME COURT CLINIC
UNIVERSITY OF NORTH CAROLINA SCHOOL OF LAW
160 Ridge Road
Chapel Hill, NC 27599

RICHARD A. HRICIK
Counsel of Record
LAW OFFICES OF RICHARD A. HRICIK, PA
941 Houston Northcutt #204
Mt. Pleasant, SC 29464
(843) 849-0136
Richard@CharlestonLawyer.com

Counsel for Petitioners

November 9, 2026

WILSON-EPES PRINTING CO., INC. – (202) 789-0096 – WASHINGTON, D.C. 20002

QUESTIONS PRESENTED

This case returns to the Court. Previously, this Court granted review and vacated the judgment below that had held Respondent, Charleston County Sheriff's Office ("CCSO")—a county office for whose judgments the State of South Carolina bears no legal liability—was entitled to Eleventh Amendment immunity.

This Court remanded for reconsideration of that immunity determination in light of *Galette v. New Jersey Transit Corp.*, 607 U.S. 509 (2026).

On remand, in a one-paragraph discussion, the Fourth Circuit reinstated its prior opinion and again held that CCSO remains entitled to the State's Eleventh Amendment immunity:

> "*Galette* addressed the implications of the corporate form for the Eleventh Amendment analysis" and therefore "does not . . . directly bear on this case." Pet. App. 4a–5a.

Yet *Galette* expressly states: "The corporate form, however, is not the only structure that signals the State has created a legally separate entity." 607 U.S. at 525.

The questions presented are:

1. Whether *Galette* is limited to only entities organized in corporate form.

2. Whether the Charleston County Sheriff's Office is an arm of the State of South Carolina.

PARTIES TO THE PROCEEDING BELOW

Petitioners are plaintiffs-appellants Randall Williams, Personal Representative of the Estates of Shanice R. Dantzler-Williams and Miranda R. Dantzler-Williams, and Betty Simmons, Personal Representative of the Estate of Stephanie Dantzler below.

Respondent Charleston County Sheriff's Office is a defendant-appellee below. Defendants Charleston County, Emily Pelletier, and Clinton Sacks are defendants below in the district court but did not participate in the proceedings in the court of appeals.

STATEMENT OF RELATED PROCEEDINGS

The following proceedings are directly related to this case within the meaning of Rule 14.1(b)(iii).

United States District Court (S.C.):

Williams v. Pelletier, 23-cv-02149-DCN (memorandum opinion granting motion to dismiss issued Dec. 13, 2023; order certifying judgment per Fed. R. Civ. P. 54(b) Mar. 12, 2024).

United States Court of Appeals (4th Cir.):

Williams v. Charleston Cnty. Sheriff's Off., No. 24-1238 (per curiam opinion affirming, decided Feb. 25, 2025; en banc denial Sep. 2, 2025);

Supreme Court of the United States:

Williams v. Charleston Cnty. Sheriff's Off., No. 25-640 (petition granted, judgment vacated, and case remanded for further consideration in light of *Galette*, decided Mar. 23, 2026; judgment issued Apr. 24, 2026);

United States Court of Appeals (4th Cir.):

Williams v. Charleston Cnty. Sheriff's Off., No. 24-1238 (per curiam opinion affirming, decided July 15, 2026; en banc denial Aug. 11, 2026).

TABLE OF CONTENTS

	Page
QUESTIONS PRESENTED	i
PARTIES TO THE PROCEEDING BELOW	ii
STATEMENT OF RELATED PROCEEDINGS	ii
TABLE OF AUTHORITIES	vii
OPINIONS AND ORDERS BELOW	1
JURISDICTION	1
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	2
INTRODUCTION	2
STATEMENT OF THE CASE	6
REASONS FOR GRANTING THE PETITION	11
I. The Decision Below Directly Conflicts with *Galette* and Has Created a Growing Circuit Conflict	11
A. The Fourth Circuit's Corporate-Form Limitation Directly Conflicts with *Galette*	12
B. The Fourth Circuit's Corporate-Form Limitation of *Galette* Conflicts with Other Circuits and Is Already Creating Confusion	15
II. The Decision Below Independently Conflicts with This Court's Required Analysis for Distinguishing Arms of the State from Lesser Governmental Entities Such As CCSO	18

TABLE OF CONTENTS—Continued

Page

III. The Decision Below is Wrong: Respondent Is Not an Arm of the State 24

IV. Summary Reversal of Respondent's Immunity Determination is Warranted 25

CONCLUSION 29

APPENDIX

TABLE OF AUTHORITIES

CASES Page(s)

Auer v. Robbins,
519 U.S. 452 (1997)..... 12

Benning v. LTYC Arts, Inc.,
No. 25-cv-3373-ABA, 2026 WL 2633447
(D. Md. Sep. 4, 2026)..... 5, 17

Cromer v. Brown,
88 F.3d 1315
(4th Cir. 1996)..... 3, 9-11, 19, 20, 22, 23

Essex v. Perry Cnty. Comm'n,
No. 26-cv-144, 2026 WL 1651456
(S.D. Ala. June 8, 2026)..... 16

Galette v. New Jersey Transit Corp.,
607 U.S. 509 (2026).....2-6, 10-24, 26-29

Harter v. Vernon,
101 F.3d 334 (4th Cir. N.C. 1996)..... 23

Hess v. Port Auth. Trans-Hudson Corp.,
513 U.S. 30 (1994)..... 4, 9, 10, 14, 19, 22

Hobson v. Green Fin. Auth.,
No. 26-cv-531, 2026 WL 880014
(D.D.C. Mar. 31, 2026)..... 17

Hutto v. Davis,
454 U.S. 370 (1982)..... 27, 28

Hutto v. South Carolina Retirement Sys.,
773 F.3d 536 (4th Cir. 2014)..... 25

Issak v. Boyd,
No. 25-cv-238, 2026 WL 2947316
(E.D. Tenn. Sep. 30, 2026)..... 17

TABLE OF AUTHORITIES—Continued

Page(s)

Lake Country Estates, Inc. v. Tahoe Reg'l Plan. Agency,
440 U.S. 391 (1979)..... 19, 20

Lawrence v. Chater,
516 U.S. 163 (1996)..... 27

Lawson v. Union County Clerk of Court,
828 F.3d 239 (4th Cir. 2016)..... 23

Lincoln Cnty. v. Luning,
133 U.S. 529 (1890)..... 4, 21

Monell v. Dep't of Soc. Servs. of City of N.Y.,
436 U.S. 658 (1978)..... 9, 10

Moor v. County of Alameda,
411 U.S. 693 (1973)..... 4, 13, 19, 21

Mt. Healthy City Sch. Dist. v. Doyle,
429 U.S. 274 (1977) 4, 19, 21, 22

National Institutes of Health v. American Public Health Association,
145 S. Ct. 2658 (2025)..... 28

Nilsen v. University of Washington,
186 F.4th 1133 (9th Cir. 2026) 15, 16

Pennsylvania v. Thomas E. Proctor Heirs Tr., 185 F.4th 396 (3d Cir. 2026) 16

Pennsylvania Turnpike Comm'n v. 1101 N. Blvd, LLC,
No. 25-cv-910, 2026 WL 1034398
(M.D. Pa. Apr. 16, 2026) 16-17

TABLE OF AUTHORITIES—Continued

Page(s)

Puerto Rico Aqueduct & Sewer Auth. v. Metcalf & Eddy, Inc., 506 U.S. 139 (1993) 26

Ruiz v. New York Mortg. Agency, No. 25-cv-1837, 2026 WL 851403 (E.D.N.Y. Mar. 28, 2026) 17

Rummel v. Estelle, 445 U.S. 263 (1980) 27

State v. Pelletier, CL-026-22 (S.C. Cir. Ct. Charleston Apr. 21, 2025) 9

Wright v. 15th Distrixt Palm County State Attorney's Office, No. 25-12737, 2026 WL 893331 (11th Cir. Apr. 1, 2026) 16

CONSTITUTIONS

U.S. Const. amend. XI 1-3, 9, 11, 12, 18, 21, 26

S.C. Const. art. X, § 7(a)–(b) 7

S.C. Const. art. X, § 8 7

STATUTES

28 U.S.C. § 1254(l) 1

42 U.S.C. § 1983 ..... 2, 9

S.C. Code Ann. § 1-11-140(A) 5, 7, 23

S.C. Code Ann. § 1-11-147 7

S.C. Code Ann. § 1-11-445(A) 7

S.C. Code Ann. § 4-1-80 ..... 7, 8

TABLE OF AUTHORITIES—Continued

Page(s)

S.C. Code Ann. § 4-9-30 6-8

S.C. Code Ann. § 4-9-33 ..... 8-9, 23, 25

S.C. Code Ann. § 4-9-140 6-8

S.C. Code Ann. § 15-78-30 7

S.C. Code Ann. § 15-78-140 7

S.C. Code Ann. § 15-78-140(A) 5, 23

S.C. Code Ann. § 15-78-150(b) 7, 23

S.C. Code Ann. § 17-13-40 8-9

S.C. Code Ann. § 23-13-60 8-9

S.C. Code Ann. § 23-13-70 8-9

RULES

Fed. R. Civ. P. 54(b) 1, 6, 10

Sup. Ct. R. 10(c) 2, 4, 12

OTHER AUTHORITIES

Carla D. Ritter et al., *County of Charleston, South Carolina, Annual Comprehensive Financial Report for the Fiscal Year Ended June 30, 2022*, Fin. Dep't, Cnty. of Charleston, S.C. (2022), https://tinyurl. com/hyb4mpkh 7

Charleston County, *Financial Reports*, https://tinyurl.com/63m22mhd (last visited Oct. 19, 2026) 7

TABLE OF AUTHORITIES—Continued

Page(s)

Laurie Hagberg et al., *County of Charleston, South Carolina, 2025 Annual Comprehensive Financial Report for the Fiscal Year Ended June 30, 2025*, Fin. Dep't, Cnty. of Charleston, S.C. (2025), https://ti nyurl.com/wkfbrx8v 7

NJ Transit, Annual Financial Report (2024) 26

PETITION FOR A WRIT OF CERTIORARI

Petitioners Randall Williams, Personal Representative of the Estates of Shanice R. Dantzler-Williams and Miranda R. Dantzler-Williams, and Betty Simmons, Personal Representative of the Estate of Stephanie Dantzler, respectfully petition the Court for a writ of certiorari to review the judgment of the United States Court of Appeals for the Fourth Circuit.

OPINIONS AND ORDERS BELOW

The Fourth Circuit's per curiam unpublished decision is available at 2026 WL 2043182 and reproduced at Pet. App. 3a–6a.

The district court's order granting Respondent's motion to dismiss on Eleventh Amendment immunity grounds is available at 2023 WL 8627812 and reproduced at Pet. App. 36a–43a. The district court's subsequent order entering judgment under Fed. R. Civ. P. 54(b) and granting a stay of proceedings is available at 2024 WL 1075444 and reproduced at Pet. App. 17a–35a.

JURISDICTION

The United States Court of Appeals for the Fourth Circuit entered judgment on July 15, 2026. Pet. App. 1a. A petition for rehearing en banc was denied on August 11, 2026. Pet. App. 1a–2a.

This Court has jurisdiction to review the Fourth Circuit's decision under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Eleventh Amendment to the United States Constitution, 42 U.S.C. § 1983, and relevant provisions of the South Carolina Constitution and South Carolina Code of Laws are reproduced at Pet. App. 54a–63a.

INTRODUCTION

This case returns to this Court because review is now warranted anew under Rule 10(c). The decision below, following this Court's GVR, presents two direct conflicts: (1) it is in direct conflict with the text and holding of *Galette v. New Jersey Transit Corp.*, 607 U.S. 509 (2026); and (2) it independently conflicts with this Court's precedents, reaffirmed in *Galette*, by granting arm-of-the-State immunity to an entity without conducting the analysis required for distinguishing arms of the State from lesser governmental entities.

The conflict created by the decision below is now growing and threatening the objective, analytical uniformity *Galette* sought to establish in Eleventh Amendment immunity determinations.

This Court's unanimous decision in *Galette* returned the arm-of-the-State inquiry to its constitutional foundation: sovereign immunity is "personal to the State itself." 607 U.S. at 519 (quotations omitted).[1] *Galette* refocused the inquiry on objective State

[1] The Court did so to correct the doctrinal drift produced by an "array of multifactor and multistep tests" across the circuits that resulted in inconsistent immunity determinations. *Galette*, 607 U.S. at 518 & n.3 (quotations omitted). Petitioners' first petition also cataloged these divergent circuit approaches that preceded *Galette*. Pet. for Cert. at 10–18, No. 25-640, 2025 WL 3490361, pp. 10–18.

legislative choices: whether the State legislature chose to structure the entity as part of the State or as legally separate, and whether it chose to obligate the State treasury by making the State legally liable for that entity's judgments. *Id.* at 525–26, 534. These objective choices made by State legislators most readily and clearly identify whether the State has a sovereign interest that Eleventh Amendment immunity exists to protect.[2]

Yet on remand, the Fourth Circuit disposed of *Galette* in one paragraph, holding that it addressed only "the implications of the corporate form" and therefore did not directly "bear on this case." Pet. App. 4a–5a. The court then expressly reaffirmed its pre-*Galette* immunity holding under *Cromer v. Brown*, 88 F.3d 1315 (4th Cir. 1996).[3]

---

[2] *Galette* also diminished the relevance of subjective proxies of sovereign interest, and in turn, greatly reduced the need and scope for judicial weighing of these proxies that had led to inconsistency in immunity determinations: it described State control as "not especially probative," 607 U.S. at 526; treated practical financial arrangements with the State as less relevant than legal liability, *id.* at 525–26, 533–34; rejected essential-function analysis as "unsound in principle and unworkable in practice," *id.* at 532–33 (quotations omitted); and declined to make state-law labels controlling, *id.* at 535–36.

[3] *Cromer* extended South Carolina's sovereign immunity to its county sheriffs and their offices even though the *Cromer* panel did not know there was no State legal liability for their judgments, did not analyze its county structure, and instead relied on a select few items of label and control, the exact subjective proxies *Galette* greatly diminished in relevance. *See* Pet. for Cert. at 6–9, No. 25-640, 2025 WL 3490361, (discussing *Cromer* and the Fourth Circuit's pre-*Galette* arm-of-the-State immunity analysis). The Fourth Circuit's reaffirmation of *Cromer* as binding precedent indicates that lower courts can disregard the very legislative choices that *Galette* holds are determinative.

The decision below creates two direct conflicts under Rule 10(c):

(1) It conflicts with *Galette* itself, which contains no such corporate-form limitation and instead states that "[o]ther aspects of state law" besides the corporate form "may indicate legal separateness." 607 U.S. at 525; and

(2) It independently conflicts with this Court's precedents, reaffirmed in *Galette*, by granting arm-of-the-State immunity to an entity without conducting the analysis required for distinguishing arms of the State from lesser governmental entities.[4] Specifically, *Mt. Healthy City School District Board of Education v. Doyle* asks whether an entity is "more like a county or city" or "like an arm of the State." 429 U.S. 274, 280 (1977), and *Hess v. Port Authority Trans-Hudson Corp.* identifies whether the State must pay its judgments as "the most important consideration." 513 U.S. 30, 51 (1994). Yet the Fourth Circuit reaffirmed CCSO's entitlement to the State's sovereign

[4] *Galette* expressly reaffirmed the importance of the analysis that determines this distinction. *See* 607 U.S. at 521–23 (discussing *Lincoln County. v. Luning*, 133 U.S. 529, 530 (1890) (county not entitled to the State's immunity due to legal separateness); *Mt. Healthy City Sch. Dist. Bd. of Educ. v. Doyle*, 429 U.S. 274, 280 (1977) (asking and determining whether the entity is "more like a county or city" or "like an arm of the State"); *Moor v. County of Alameda*, 411 U.S. 693, 719–21 (1973) (county remained legally separate despite analyzing and considering its exercise of governmental authority under state law); and *Hess v. Port Auth. Trans-Hudson Corp.*, 513 U.S. 30, 47–52 (1994) (analysis revealed entity remained a "discrete entity" where the States were not legally responsible for its obligations).

immunity without the analysis required by these principles.[5]

The consequences of the decision below are growing within the Fourth Circuit: a district court has relied on the decision below to preserve a pre-*Galette* immunity determination for a county school board where the State of Maryland has no formal liability for its judgments, by dismissing *Galette*'s new framework and restoration of core immunity principles. *Benning v. LTYC Arts, Inc.*, 2026 WL 2633447, at *7 (D. Md. Sep. 4, 2026).

The decision below and *Benning* both illustrate that the very problems *Galette* sought to solve are reemerging: the corporate-form limitation in the decision below is now being used to preserve pre-*Galette* proxy-driven immunity determinations. Meanwhile, other circuits are applying *Galette*'s objective and clarified framework as written. The resulting conflict threatens the very uniformity *Galette* sought to establish and will require this Court's resolution—either now, while the error is readily correctable—or later, after additional inconsistent immunity determinations are decided.

In sum, after two trips through the Fourth Circuit, two denials of rehearing *en banc*, without any judge requesting a poll, and now even after this Court's intervening GVR and unanimous decision in *Galette*,

---

[5] As mandated by South Carolina law, Charleston County alone has paid the premiums and purchased the liability policy that is providing Respondent CCSO's defense. S.C. Code Ann. §§ 15-78-140(A), 1-11-140(A). Through reinsurance, that risk is ultimately borne by American Southern Insurance Company, a subsidiary of Atlantic American Corporation (NASDAQ: AAME). C.A. App. 51–58, 78–140. Thus, the grant of the State's sovereign immunity to Respondent by the court below protects only the treasuries and financial interests of a publicly-traded insurer and a county.

the Fourth Circuit has summarily reaffirmed CCSO's entitlement to the State of South Carolina's sovereign immunity. It did so even though the General Assembly chose not to obligate the State treasury and make the State legally liable for CCSO's judgments—the very argument the district court found "well-taken" when it entered judgment under Rule 54(b). Pet. App. 33a–34a n.9.

And even more importantly after *Galette*, what "personal" right of the sovereign State of South Carolina is being protected by insulating the treasuries of the County of Charleston and its publicly traded automobile insurer American Southern Insurance (NASDAQ:AAME) from Petitioner's claims?

This Court should grant the petition and summarily reverse. Alternatively, it should again vacate and remand with instructions that (1) *Galette* is not limited to the corporate form and (2) CCSO's immunity claim be determined by conducting the analysis required by this Court's precedents for distinguishing arms of the State from lesser governmental entities.

STATEMENT OF THE CASE

1. Respondent Charleston County Sheriff's Office, as its name states, is a department of Charleston County, not the State of South Carolina. Counties in South Carolina are financially and operationally structured as a single political subdivision with subordinate departments for the purposes of budgeting and accounting, and the State is not involved. S.C. Code Ann. §§ 4-9-30, 4-9-140; C.A. App. 15, 49–53.

The State of South Carolina does not include CCSO in the State's financial reporting. Charleston County funds, budgets, insures, and indemnifies CCSO—the same as all the other departments of Charleston

County—and reports CCSO as a County department in the County's audited financial statements. S.C. Code Ann. §§ 4-1-80, 4-9-30, 4-9-140; C.A. App. 15, 51–57.[6]

Under South Carolina law, the State bears no legal liability for judgments against CCSO. *See* S.C. Const. art. X, §§ 7(a)–(b); 8; S.C. Code Ann. §§ 1-11-140(A), 1-11-445(A),15-78-30, 15-78-140.

Even when Charleston County elects to purchase liability insurance from the State Insurance Reserve Fund to cover its departments, including CCSO, there are no State funds liable for the claims, as the fund is a self-insurance mechanism, collecting premiums, making investments, paying claims only from the fund, and can only use these funds (and reinsurance) to pay claims. S.C. Code Ann. §§ 1-11-140(A), 15-78-150(b); C.A. App. 53-58, 78–140.[7]

---

[6] In 2022, Charleston County budgeted, funded, and expended roughly $76.6 million County dollars appropriated to the operations of CCSO including the purchase of insurance for its personnel and vehicles. Carla D. Ritter et al., *County of Charleston, South Carolina, Annual Comprehensive Financial Report for the Fiscal Year Ended June 30, 2022* 46–47, 112, Fin. Dep't, Cnty. of Charleston, S.C. (2022), https://tinyurl.com/hyb4mpkh. In 2025, Charleston County budgeted, funded, and expended roughly $95.36 million County dollars appropriated to the operations of CCSO including the purchase of insurance for its personnel and vehicles. Laurie Hagberg et al., *County of Charleston, South Carolina, 2025 Annual Comprehensive Financial Report for the Fiscal Year Ended June 30, 2025* 45–46, 114, Fin. Dep't, Cnty. of Charleston, S.C. (2025), https://tinyurl.com/wkfbrx8v; *see also* Charleston County, *Financial Reports*, https://tinyurl.com/63m22mhd (collecting Charleston County's annual financial reports) (last visited Oct. 19, 2026).

[7] The Insurance Reserve Fund transfers 100% of its automobile liability risk through reinsurance to American Southern Insurance

South Carolina law requires Charleston County, not the State, to budget and fund the operations of the County and its County offices. S.C. Code Ann. §§ 4-9-30, 4-9-140, 4-1-80; C.A. App. 15, 49–53.

Charleston County Sheriff's Office lacks the authority to levy taxes or establish its own budget and must submit its proposed budget for approval and vote to Charleston County Council—not the State of South Carolina. S.C. Code Ann. §§ 4-9-30, 4-9-140; C.A. App. 15, 49–53.

The State of South Carolina has no involvement in Charleston County's budget process—the State provides no input and has no veto power. S.C. Code Ann. §§ 4-9-30, 4-9-140; C.A. App. 15, JA49–53; *see supra* note 6 and financial data within.

Charleston County provides its County Sheriff's Office with the land, property, buildings, vehicles, and all other furnishings necessary to carry out its duties, and all of these Charleston County assets used by CCSO are titled and owned by Charleston County, not the State. S.C. Code Ann. §§ 4-9-30, 4-9-140,4-1-80; C.A. App. 15, 49–53; *see supra* note 6 and financial data within.

Additionally, state law gives Charleston County Council and its citizens, by statute, sole control over who exercises its law enforcement authority in Charleston County (CCSO or a county police department) and that law enforcement authority, including the power to arrest, is limited by statute to within the county and adjacent county only. S.C. Code

---

Company, a subsidiary of Atlantic American Corporation (NASDAQ: AAME). S.C. Code Ann. § 1-11-147; C.A. App. 51–58, 78–140.

Ann. §§ 4-9-33, 17-13-40, 23-13-60, 23-13-70; C.A. App. 49–51, 59–60.[8]

2. On Mother's Day, May 8, 2022, defendant Emily Pelletier of the Charleston County Sheriff's Office was racing with another deputy to a non-emergency, using neither lights nor sirens, and went through a stop sign at 82 mph (37 mph over the limit), crossed two lanes of traffic, and struck and killed Stephanie Dantzler and her two daughters, Shanice and Miranda Dantzler-Williams. C.A. App. 30–34.[9]

Petitioners, the Personal Representatives of the deceased, thereafter brought state and federal claims, including 42 U.S.C. § 1983 municipal liability claims ("*Monell* Claims") against CCSO. C.A. App. 16–43. CCSO moved to dismiss Petitioners' *Monell* Claims asserting Eleventh Amendment immunity as an arm of the State. C.A. App. 7–12.

The district court granted CCSO's motion to dismiss, holding that it was bound by *Cromer v. Brown*, 88 F.3d 1315 (4th Cir. 1996), and that CCSO was entitled to arm-of-the-State immunity. Pet. App. 36a–43a.

Petitioners had argued to the district court that *Cromer* was not binding precedent in accord with this Court's arm-of-the-State jurisprudence, especially *Hess*, as the *Cromer* court (1) did not consider the fact that there was no State liability for a judgment against any County Sheriff's Office; and (2) did not know that

---

[8] Respondent has never disputed the facts recited above nor identified any provision of South Carolina law making the State legally liable for a judgment against CCSO at any point in this litigation.

[9] On April 21, 2025, Defendant Pelletier was found guilty of 3 counts of reckless homicide. *State v. Pelletier*, CL-026-22 (S.C. Cir. Ct. Charleston Apr. 21, 2025).

the State of South Carolina was legally prohibited from paying any insurance premiums of any county office.[10] *Cromer*, 88 F.3d at 1332.

Petitioners thereafter moved to certify the issue for immediate appeal per Fed. R. Civ. P. 54(b) reiterating these defects in *Cromer*. C.A. App. 297–304.

In granting certification, the district court found the argument "well-taken" that the *Cromer* panel did not consider, and was unaware of, the absence of State liability from any judgment from *Monell* Claims brought against another County Sheriff (and the Sheriff's Office) in South Carolina, nor the absence of State treasury payment of insurance premiums. Pet. App. 33a–34a n.9. Petitioners immediately appealed.

3. The Fourth Circuit affirmed without oral argument in an unpublished per curiam opinion. Pet. App. 12a–16a. It did not address the absence of State liability, nor did it conduct an analysis of the County Sheriff's Office's structure. *Id.* at 15a–16a n.2. Instead, the Fourth Circuit summarily reaffirmed *Cromer* and held it to be controlling. *Id.* at 15a–16a. The court denied rehearing and rehearing en banc. *Id.* at 11a.

4. Petitioners then petitioned this Court for a writ of certiorari. Pet. App. 9a–10a. While the petition was pending, this Court unanimously decided *Galette* and returned the arm-of-the-State inquiry to its constitutional foundation: sovereign immunity is a right "personal to the State itself." 607 U.S. at 519 (quotations

---

[10] "[I]t is unclear whether the state treasury would be partially liable for a judgment in this case." *Cromer*, 88 F.3d at 1332. The *Cromer* panel never determined, and was unaware, that the State of South Carolina bore no legal (nor financial) liability for the judgments at issue—the consideration *Hess* identified as the most important consideration and that *Galette* reaffirmed.

omitted). *Galette* refocused the inquiry on objective legal choices made by State legislators: whether the State legislature chose to structure the entity as part of the State or as legally separate, and whether the State legislature chose to make the State legally liable for the entity's judgments. *Id.* at 525–26, 534.

This Court granted the petition, vacated the judgment below, and remanded the immunity determination of Respondent "for further consideration in light of *Galette*." Pet. App. 9a–10a.

On remand, without holding oral argument, the Fourth Circuit again reaffirmed *Cromer* and held that CCSO is an arm-of-the-State by adding one short paragraph to its original decision: "*Galette* addressed the implications of the corporate form for the Eleventh Amendment analysis" and thus "does not supersede our court's controlling precedent [*Cromer*] or directly bear on this case." Pet. App. 4a–5a. The panel offered no further discussion or analysis.

The court denied rehearing and rehearing en banc. Pet. App. 1a–2a.

REASONS FOR GRANTING THE PETITION

I. The Decision Below Directly Conflicts with *Galette* and Has Created a Growing Circuit Conflict.

Pursuant to this Court's GVR, the Fourth Circuit was directed to reconsider its prior immunity determination of Respondent in light of this Court's unanimous decision in *Galette v. New Jersey Transit Corp.*, 607 U.S. 509 (2026).

The court below reaffirmed that determination on a single premise:

> "*Galette* addressed the implications of the corporate form for the Eleventh Amendment analysis" and therefore "does not . . . directly bear on this case." Pet. App. 4a–5a.

Yet *Galette* expressly states: "[t]he corporate form, however, is not the only structure that signals the State has created a legally separate entity." 607 U.S. at 525.

The decision below warrants review under Rule 10(c) because it contradicts *Galette*'s express language and reasoning as well as undermines core constitutional Eleventh Amendment immunity principles.

A. The Fourth Circuit's Corporate-Form Limitation Directly Conflicts with *Galette*.

This Court's unanimous opinion in *Galette* contains no limitation confining its holding to entities organized in corporate form.[11] The Fourth Circuit's stated corporate-form limitation does not appear in the *Galette* opinion and has not been adopted by any other court.[12]

Galette addressed the doctrinal uncertainty produced by an "array of multifactor and multistep tests" employed by the lower courts to determine whether governmental entities share a State's sovereign immunity. 607 U.S. at 518. Those varying tests

---

[11] Critically, *Galette* expressly recognized that its analysis extended to considerations involving "unincorporated entities." 607 U.S. at 527 n.5 (citing *Auer v. Robbins*, 519 U.S. 452, 456 n.1 (1997) (concluding that an unincorporated Board of Police Commissioners was not an arm of Missouri)).

[12] At the time of this writing, no court of appeals or district court applying *Galette* has adopted the Fourth Circuit's corporate-form limitation. *See* Section I.B, *infra*.

elevated different subjective considerations, assigned them differing weight, and produced inconsistent immunity determinations even as to identical entities. *See id.* at 518 & n.3. *Galette* returned the inquiry to its constitutional foundation: sovereign immunity is "personal to the State" and extends only to entities properly regarded as part of that sovereign State. *Id.* at 519.

To restore consistency in immunity determinations, *Galette* prioritized the "separateness" of the entity from the State. 607 U.S. at 525. The Court looked to the objective choices made by the State, such as whether the State's legislators chose to structure the entity as part of the State or as legally independent, and additionally, whether those legislators chose to obligate the State treasury by making the State legally liable for that entity's judgments. *Id*. at 523–26. Conversely, the Court greatly diminished the relevance of subjective considerations often used in the circuits for immunity determinations such as practical financial relationships, the degree of State control, governmental functions, and even State-law labels. *Id*. at 525–27, 532–36.

Galette's discussion of *Moor v. County of Alameda*, 411 U.S. 693 (1973), further confirms that corporate form is but a part of any immunity consideration. The inquiry in *Moor* extended beyond governmental labels and considered the entity's actual legal structure, powers, and financial obligations under State law. *Galette*, 607 U.S. at 522, 525.

The Court specifically cited *Moor* immediately after explaining that corporate form "is not the only structure" demonstrating separateness and that "[o]ther aspects of state law may indicate legal separateness as well." *Galette*, 607 U.S. at 525.

Galette also gave specific examples of non-corporate entities that would need to be analyzed under its new framework noting: "Additional considerations may apply, for example, in cases involving bistate entities or unincorporated entities." 607 U.S. at 527 n.5.

Galette renewed focus on another objective legislative choice critical to immunity determinations and "separateness" from the State having nothing to do with corporate form: whether a State's legislators chose to obligate their State's treasury by making the State legally liable for an entity's judgments. The Court explained that its precedents have "consistently, and predominantly, examined whether the State structured the entity as a legally separate entity liable for its own judgments." 607 U.S. at 523–24. It then asked whether "any judgment" against the entity "must be satisfied out of the state treasury." *Id.* at 525 (quoting *Hess*, 513 U.S. at 51). The Court later identified this choice by State legislators to obligate the State treasury and make the State legally liable for an entity's judgments as the "more apt question." *Id.* at 534.

Responding to the predictability concerns raised by twenty-three *amici* States, the Court did not preserve all prior immunity determinations. Nor did it tell the States that *Galette* affected only corporations. Instead, the Court explained that State legislatures possess the power to correct any immunity determinations made by courts noting: States remain free to "structure themselves as they wish" and, if existing law does not produce the immunity status they desire, "are always free to amend their laws." 607 U.S. at 536 (internal quotation marks omitted). That response contemplates that existing immunity classifications may change under *Galette*'s framework—and identifies

State legislative amendment of State law, rather than continued reliance on prior judicial determinations—as the States' readily available remedy.

The Fourth Circuit's corporate-form-only interpretation of *Galette* is now both a dispositive threshold and future limitation as to all noncorporate entities—effectively insulating all of its pre-*Galette* immunity determinations from reconsideration, while ensuring that all future determinations will be subject to the Fourth Circuit's pre-*Galette* tests. Pet. App. 4a–5a.

The decision below conflicts with *Galette*'s express language and reasoning while perpetuating and creating new doctrinal inconsistencies that *Galette* sought to correct.

B. The Fourth Circuit's Corporate-Form Limitation of *Galette* Conflicts with Other Circuits and Is Already Creating Confusion.

The Fourth Circuit's holding that *Galette* is limited to "implications of the corporate form," conflicts with decisions of other circuits. For instance, the Ninth Circuit applied *Galette* to examine whether the University of Washington is an arm of the State. *Nilsen v. University of Washington*, 186 F.4th 1133 (9th Cir. 2026). As the Ninth Circuit explained, "*Galette* identified three factors . . . in descending order of importance: (1) how the entity is structured in relation to the State under state law; (2) whether the State is formally liable for judgments against the entity; and (3) the degree of control the State exercises over the entity." *Id.* at 1137.

The Ninth Circuit understood that *Galette* had "refine[d]" the circuit's existing arm-of-the-State inquiry. *Nilsen*, 186 F.4th at 1138. It noted that

"*Galette* clarifies how much weight we should give each factor" in the sovereign immunity analysis and that the resulting test "emphasizes" the importance of "who pays any judgment." *Id.* at 1135. The Ninth Circuit undertook that analysis despite observing that the University "is not a corporation under state law." *Id.* at 1138.

The Third and Eleventh Circuits have also recognized that *Galette* "instructed courts to focus on" those same factors with appropriate weighting in the arm-of-the-State inquiry. *Wright v. 15th District Palm County State Attorney's Office*, No. 25-12737, 2026 WL 893331, at *2 (11th Cir. Apr. 1, 2026) (per curiam). The Third Circuit held that "[u]nder [its] updated arm-of-the-state test, the Game Commission is not an arm of Pennsylvania because Pennsylvania law 'structured [it] as a legally separate entity liable for its own judgments.'" *Pennsylvania v. Thomas E. Proctor Heirs Tr.*, 185 F.4th 396, 412 (3d Cir. 2026) (alteration in original) (quoting *Galette*, 607 U.S. at 524). The Third Circuit recognized that "*Galette* . . . modified our approach by placing nearly all the weight on the first two factors and treating the autonomy factor as a distant third of limited relevance." *Id.* at 405. The Eleventh Circuit likewise applied *Galette* to hold that a state attorney's office was an arm of the State. *Wright*, 2026 WL 893331, at *3.

The district courts have also similarly understood and applied *Galette* to various non-corporate form entities.[13] As of this filing, Petitioners could not locate

---

[13] *See Essex v. Perry Cnty. Comm'n*, No. 26-cv-144, 2026 WL 1651456, at *4 (S.D. Ala. June 8, 2026) ("Based on the arm-of-the-State inquiry in *Galette*, [the County Commission] is not an arm of Alabama."); *Pennsylvania Turnpike Comm'n v. 1101 N. Blvd, LLC*, No. 25-cv-910, 2026 WL 1034398, at *8 (M.D. Pa. Apr. 16,

any decision that holds corporate form as a prerequisite or limitation of *Galette*.

The Fourth Circuit thus stands alone in treating *Galette* as limited to "address[ing] the implications of the corporate form." Pet. App. 4a.

As would be expected, the Fourth Circuit's error is already affecting arm-of-the-state analyses in its lower courts. Less than two months after the decision below, a Maryland district court considered whether a city's Board of School Commissioners was an arm of the State. *Benning v. LTYC Arts, Inc.*, 2026 WL 2633447 (D. Md. Sep. 4, 2026). The court held the Board immune under pre-*Galette* circuit precedent, concluding that *Galette* "did not clearly abrogate" it. *Id.* at *7. In reaching that conclusion, the district court relied on the Fourth Circuit's decision below as "helpful guidance." *Ibid.* And it did so despite recognizing that *Galette* "instruct[s] courts to focus upon formal liability for judgments rather than practical arrangements," and that "the State of Maryland has not accepted liability for judgments against county boards of education." *Id.* at *4, *8. The decision below is thus being used as

---

2026) (citing *Galette* in reasoning that "[t]he Pennsylvania Turnpike Commission Act is clear evidence that the Commonwealth created a separate legal entity"); *Hobson v. Green Fin. Auth.*, No. 26-cv-531, 2026 WL 880014, at *4 (D.D.C. Mar. 31, 2026) (emphasizing "*Galette*'s focus on legal separability and formal liability"); *Ruiz v. New York Mortg. Agency*, No. 25-cv-1837, 2026 WL 851403, at *11 (E.D.N.Y. Mar. 28, 2026) ("Focusing on the elements set forth in *Galette*, . . . the Court finds that [the State of New York Mortgage Agency] is not an arm of the state."); *Issak v. Boyd*, No. 25-cv-238, 2026 WL 2947316, at *4–5 (E.D. Tenn. Sep. 30, 2026) (applying *Galette* to a university's noncorporate institutional review board and examining legal separateness and responsibility to pay judgments, and finding that both favored immunity).

persuasive guidance to hold that a county school board, that is not a department of the State, for whose judgments the State bears no legal liability, is still an arm of the State even after *Galette*.

The conflict is no longer hypothetical: other circuits are correctly applying *Galette*'s clarified objective framework, while the Fourth Circuit stands alone and continues to preserve its pre-*Galette* subjective proxy-driven immunity determinations. Without this Court's intervention, the Fourth Circuit's corporate-form limitation will multiply doctrinal conflicts, entrench pre-*Galette* immunity determinations, and undermine the uniformity in immunity determinations that *Galette* sought to establish.

II. The Decision Below Independently Conflicts with This Court's Required Analysis for Distinguishing Arms of the State from Lesser Governmental Entities Such As CCSO.

Separate from its corporate-form limitation of *Galette*, the decision below also independently conflicts with this Court's longstanding Eleventh Amendment jurisprudence requiring lower courts to examine the legal character of a governmental entity claiming immunity to determine whether that entity is: (1) a lesser governmental entity such as a county; or (2) an actual arm of the sovereign State.[14] *See Galette*, 607 U.S. at 521–26; *Mt. Healthy*, 429 U.S. at 280–81.

In both of its decisions granting Respondent arm-of-the-State immunity, the Fourth Circuit determined

---

[14] Petitioners raised this independent conflict in their first petition. Pet. for Cert. at 6–9, 21–23, No. 25-640, 2025 WL 3490361; *see also* C.A. Br. 29–34, CA4 (Dkt. No. 25), 2024 WL 3404523.

that CCSO was an arm of the State without considering the undisputed facts establishing Respondent's county structure, including the objective legislative choice made by the South Carolina General Assembly not to make the State legally liable for CCSO's judgments. *See, e.g.*, *Moor*, 411 U.S. at 718–21 (examining the county's legal structure, governmental powers, and responsibility for its own judgments); *Mt. Healthy*, 429 U.S. at 280–81 (considering State funding and supervision alongside local governmental powers); *Lake Country Estates, Inc. v. Tahoe Reg'l Plan. Agency*, 440 U.S. 391, 401–02 (1979) (examining local governmental characteristics, county funding, and the States' absence of judgment liability); *Hess*, 513 U.S. at 44–48, 51–52 (examining substantial State control but rejecting immunity where the States lacked legal liability for judgments); *Galette*, 607 U.S. at 522–27 (reaffirming these decisions and the significance of legal separateness and formal judgment liability).

The Fourth Circuit's failure to conduct the analysis that these precedents require is not merely a procedural omission—it reflects an analytical approach not taken in any of them. By reaffirming *Cromer* as controlling without conducting any further analysis, irrespective of *Galette*, the court below treated selected indicia of State control and governmental function as sufficient to establish sovereign immunity, without considering Respondent's county structure or South Carolina's absence of legal liability for its judgments—the most "salient" consideration.[15] *Galette*, 607 U.S. at 524.

---

[15] The court below has now twice reaffirmed *Cromer* and held it controlling, including after *Galette* and this Court's GVR. But as previously noted, *Cromer* never considered either the county structure of the sheriff's office before it or whether South

Thus, the immunity analysis reaffirmed by the court below following the GVR directly conflicts with this Court's pre-*Galette* precedents, reaffirmed in *Galette*, that have "consistently, and predominantly," examined legal separateness and responsibility for judgments to determine whether an entity is a lesser governmental entity. 607 U.S. at 523–24; c*ompare Cromer*, 88 F.3d at 1332–33; Pet. App. 4a–5a, *with Lake Country Estates*, 440 U.S. at 401–02.[16]

Lesser governmental entities have sought to claim their State's sovereign immunity for an obvious reason—it is in their financial and legal interest to do so. Accordingly, this Court established a clear analysis of an entity's characteristics that would accurately separate arms of the State from lesser governmental entities.

Beginning with *Lincoln County v. Luning*, 133 U.S. 529 (1890), *Galette* reaffirmed the "firmly established rule that municipal corporations and counties are not arms of the State." 607 U.S. at 522. The rule reflects the fundamental distinction at the heart of the Eleventh Amendment: municipal corporations and counties may be created by the State and exercise

---

Carolina bore legal liability for its judgments. *See Cromer*, 88 F.3d at 1332–33; *supra* note 3.

[16] In *Lake Country Estates*, the Court examined the entity's local governmental structure, the counties' role in appointing its governing members and funding its operations, the absence of State-level veto over its rulemaking, and, critically, the States' lack of legal liability for its judgments. 440 U.S. at 401–02. The Court concluded that the entity was not an arm of either State and rejected immunity premised on an agency's exercise of a "slice of state power." *Ibid.* (quotations omitted). Petitioners submit that conducting this analysis of characteristics as to CCSO would yield the same denial of immunity.

governmental authority conferred by the State, but they remain legally distinct from the sovereign who created them and whose immunity they may seek to invoke. *See Lincoln County*, 133 U.S. at 530–31; *Galette*, 607 U.S. at 521–22.

That principle supplied the framework in *Mt. Healthy*. As *Galette* emphasized, *Mt. Healthy* framed the arm-of-the-State inquiry as whether the entity is "more like a county or city" or instead more "like an arm of the State." *Galette,* 607 U.S. at 522 (quoting *Mt. Healthy*, 429 U.S. at 280). Looking to the entity's characteristics under state law, *Mt. Healthy* concluded that the school board was more like a county or city and therefore was not entitled to the State's immunity. 429 U.S. at 280–81.

Galette traced the same analysis through *Moor*. California denominated counties "legal subdivisions of the State," yet that State-law label did not make the county an arm of the State. *Moor*, 411 U.S. at 719–20 (quotations omitted). What mattered instead were the objective legal choices the legislature of California had made: the county possessed separate legal powers, incurred its own obligations, and was itself liable for judgments against it—not the State. *Id.* at 718–21; *Galette*, 607 U.S. at 522. *Galette*'s discussion of *Moor* is particularly significant here because it confirms two critical points: (1) the inquiry examines the entity's actual legal obligations and separateness from the State, not merely its State-law designation; and (2) a governmental entity does not become the State merely because State law describes it as part of the State's governmental structure. *See* 607 U.S. at 522, 525.

Galette also traced the same distinction through *Hess*. There, the States exercised substantial control over the entity, including appointment and removal

authority over its commissioners. But, as *Galette* explained, that control was not dispositive. The entity remained a "discrete entity" that generated its own revenues and paid its own debts. 607 U.S. at 523 (quoting *Hess*, 513 U.S. at 52). *Hess* identified whether the State must pay the entity's judgments as "the most important consideration," and described vulnerability of the State treasury as "the most salient factor." 513 U.S. at 47–48, 51 (quotations omitted). The States were not legally responsible for its judgments or debts. *Id.* at 46–51; *Galette*, 607 U.S. at 523. The entity therefore was not entitled to the States' sovereign immunity.

The question here, as *Galette* expressly reaffirmed, is whether the General Assembly of South Carolina chose to structure the Charleston County Sheriff's Office as "more like a county or city" than an arm of the State of South Carolina. 607 U.S. at 522 (quoting *Mt. Healthy*, 429 U.S. at 280). And, further, did those legislators choose to obligate the State's treasury and make the State legally liable for Respondent's judgments.[17]

---

[17] *Cromer* did not consider the county structure of the sheriff's office before it or whether South Carolina bore legal liability for its judgments. Working from a limited record, the court instead stated that it was "unable to discern" whether the State paid any insurance premiums and therefore found it "unclear whether the state treasury would be partially liable for a judgment." 88 F.3d at 1332. *Galette* has now substantially diminished the significance of the purported facts upon which *Cromer* relied: practical financial relationships are less relevant than legal liability, and State control is "not especially probative." 607 U.S. at 525–27. The analysis in *Cromer* is even in conflict within the Fourth Circuit itself. *Harter v. Vernon* denied immunity to a North Carolina county sheriff where the State was not liable for the judgment, 101 F.3d 334, 340–43 (4th Cir. 1996), while *Lawson v. Union County Clerk of Court* denied immunity to a South Carolina county clerk of court's office after considering the absence of State financial responsibility, county funding, local concerns, and

There is no question—CCSO is not the State: the State of South Carolina bears no legal liability for Respondent's judgments; Charleston County alone budgets, funds, insures, and financially reports Respondent as a County office; and Charleston County Council and its citizens possess complete control over Respondent's law-enforcement power, which they may transfer to a county police department. *See supra* Statement of the Case, pt. 1; S.C. Code Ann. §§ 4-9-33, 1-11-140(A), 15-78-140(A), 15-78-150(b); C.A. App. 49–60, 78–140.

Yet the Fourth Circuit twice granted immunity to CCSO without considering (1) Respondent's name—the Charleston County Sheriff's Office—and its undisputed county structure, documented in Charleston County's audited financial statements; (2) the objective legislative choice of the South Carolina General Assembly not to obligate the State as to CCSO's judgments; and perhaps most importantly (3) what "personal" right of the sovereign State of South Carolina is being protected by insulating the treasuries of the County of Charleston and its publicly traded automobile insurer from the claims of Petitioners.

III. The Decision Below is Wrong: Respondent Is Not an Arm of the State.

Whether analyzed under *Galette* or this Court's longstanding jurisprudence distinguishing the immunity

---

independence from the State, 828 F.3d 239, 250–51 (4th Cir. 2016). Yet *Cromer* remains controlling precedent extending the State's immunity to all 46 county sheriffs' offices in South Carolina without having considered the objective considerations *Galette* now makes central. *See also* Pet. for Cert. at 6–9, 20–23, No. 25-640, 2025 WL 3490361; C.A. App. 49–60, 78–140.

boundary between sovereign States and lesser governmental entities, the answer is the same—Charleston County Sheriff's Office is not an arm of the State of South Carolina.

On the undisputed facts, Respondent's name says it all—it is the Charleston County Sheriff's Office. More importantly, the exhaustive and undisputed record and state statutes establish these critical and determinative objective choices made by the General Assembly of South Carolina:

- **No State liability.** The General Assembly did not obligate the State treasury by making South Carolina legally liable for Respondent's judgments.
- **No State funding or budgeting.** South Carolina does not budget or appropriate operating funds for Respondent, nor does it pay CCSO's liability insurance premiums or put State funds at risk for its claims.
- **No State property or financial reporting.** South Carolina does not furnish Respondent's equipment or include CCSO in the State's financial statements.
- **Charleston County, not the State of South Carolina, bears all of these responsibilities.**
  Charleston County budgets, funds, equips, insures, and financially reports Respondent as a County office as required by law.
- **Charleston County has sole control of its law enforcement power**.
  The General Assembly expressly gave Charleston County Council and its citizens control over who exercises its law enforcement authority: their

county sheriff's office or a county police department. S.C. Code Ann. § 4-9-33.[18]

The governing precedent of this Court is clear. The material facts and relevant considerations are undisputed. They definitively establish what CCSO is not: Respondent is not an arm of the State. Respondent is what its name says it is: the Charleston County Sheriff's Office.

IV. Summary Reversal of Respondent's Immunity Determination is Warranted.

This case is appropriate for summary reversal. Whether a governmental entity is an arm of the State entitled to sovereign immunity is a question of law reviewed de novo. *Hutto v. South Carolina Retirement Sys.*, 773 F.3d 536, 542 (4th Cir. 2014). Appellate courts routinely make immunity determinations, including this Court, which determined the New Jersey Transit Corporation ("NJ Transit") was not an arm of the State of New Jersey in *Galette*.[19]

The record is equally, if not more, complete as to Respondent. The extensive operative facts concerning CCSO's governmental structure, finances, and opera-

---

[18] The record and prior briefing exhaustively document Respondent's county structure, finances, and operations. Pet. for Cert. at 4–6, No. 25-640, 2025 WL 3490361; C.A. Br. 13–19 (Dkt. No. 25), 2024 WL 3404523 (listing approximately 50 operative facts with citations to the record and South Carolina statutes where applicable); C.A. App. 49–60, 78–140.

[19] In *Galette*, the absence of State liability for NJ Transit's judgments was established as a matter of law and this Court referenced NJ Transit's Annual Financial Report (year ended June 30, 2024) in reaching its conclusion that NJ Transit was not an arm of the State of New Jersey. *See* 607 U.S. at 517 & nn. 1–2, 529–30.

tions are all undisputed. There is no State law that makes the State of South Carolina legally liable for Respondent's judgments. Respondent has not once identified any competing material facts concerning its county structure, funding, insurance, ownership of assets, or jurisdiction that establish its claim of sovereign immunity using the considerations required by this Court, especially after *Galette*, for an obvious reason—none exist.

The law is unequivocal. And, just as in *Galette*, the material financial facts and county structure are publicly reported in Charleston County's Audited Annual Financial Reports, and not the State's. *See supra* fn 6.

No further factfinding is necessary, and another remand risks another round of appellate review as a denial of Eleventh Amendment immunity is immediately appealable. *Puerto Rico Aqueduct & Sewer Auth. v. Metcalf & Eddy, Inc.*, 506 U.S. 139, 147 (1993). Another remand could therefore delay resolution of this immunity determination and bring this case before this Court for a possible third time.

This Court has already intervened once. It granted Petitioners' first petition, vacated the Fourth Circuit's judgment, and remanded for reconsideration in light of *Galette*. Pet. App. 9a–10a. A GVR is not an empty procedural exercise. As this Court explained in *Lawrence v. Chater*, 516 U.S. 163 (1996), a GVR serves to flag an issue the lower court does not appear to have fully considered and to obtain the benefit of that court's reconsideration before this Court rules on the merits. *Id.* at 167–68. This Court expressly recognized a GVR as "a cautious and deferential alternative to summary reversal." *Id.* at 168.

Yet, on remand, the Fourth Circuit disposed of *Galette* in one paragraph, erroneously concluding that it addressed only the implications of corporate form and therefore did not directly bear on this case. Pet. App. 4a–5a. The court below also reinstated its prior immunity determination without conducting the analysis required by this Court's precedents for distinguishing arms of the State from lesser governmental entities.

The procedural history of this case closely parallels that of *Hutto v. Davis*, 454 U.S. 370 (1982). There, this Court also vacated a Fourth Circuit judgment and remanded for reconsideration in light of *Rummel v. Estelle*, 445 U.S. 263 (1980). *Hutto*, 454 U.S. at 372. On remand, the Fourth Circuit reaffirmed its earlier judgment, relying on an analytical approach from pre-*Rummel* circuit precedent that this Court had implicitly disapproved. *Id.* at 372–74.

This Court summarily reversed. The Court explained that the Fourth Circuit's decision could be understood as disregarding, consciously or unconsciously, the hierarchy of the federal judicial system. *Hutto*, 454 U.S. at 375. It warned that "unless we wish anarchy to prevail within the federal judicial system," lower courts must follow this Court's precedents. *Ibid.*

Members of this Court recently underscored the continuing force of that principle. Invoking *Hutto*, Justice Gorsuch, joined by Justice Kavanaugh, emphasized that this Court should not have to repeatedly intervene to enforce its precedents. *National Institutes of Health v. American Public Health Association*, 145 S. Ct. 2658, 2663–65 (2025) (Gorsuch, J., concurring in part and dissenting in part).

So too here. Despite this Court's GVR, the Fourth Circuit reinstated its pre-*Galette* immunity determination without applying (1) *Galette*'s clarified immunity framework or (2) this Court's long-standing immunity analyses that establish the constitutional boundary between States and lesser governmental entities beginning with *Lincoln County*.

The undisputed record and points of law establish what Respondent's name says, it is: the Charleston County Sheriff's Office, an office of Charleston County for whose judgments South Carolina bears no legal liability. Petitioners ask this Court to not delay this matter further and recognize what the legislators of South Carolina chose: to place Respondent squarely within Charleston County, and to clearly separate the State from Respondent, including by not making the State legally liable for Respondent's judgments.

Those objective choices prove there is no sovereign interest of the State of South Carolina in need of protection from Petitioners' claims. There are only the treasuries of Charleston County and its publicly traded insurer (a subsidiary of Atlantic American Corporation (NASDAQ:AAME)) that are both unjustly being afforded a constitutional protection reserved for the State of South Carolina.

This Court should grant the petition and summarily reverse. Alternatively, it should again vacate and remand with instructions that (1) *Galette* is not limited to the corporate form and (2) Respondent's immunity claim be determined by conducting the analysis required by this Court's precedents for distinguishing arms of the State from lesser governmental entities.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

RICHARD A. SIMPSON
ALEX C. BOOTA
UNC SUPREME COURT CLINIC
UNIVERSITY OF NORTH CAROLINA SCHOOL OF LAW
160 Ridge Road
Chapel Hill, NC 27599

RICHARD A. HRICIK
Counsel of Record
LAW OFFICES OF RICHARD A. HRICIK, PA
941 Houston Northcutt #204
Mt. Pleasant, SC 29464
(843) 849-0136
Richard@CharlestonLawyer.com

Counsel for Petitioners

November 9, 2026

APPENDIX

APPENDIX TABLE OF CONTENTS

	Page
APPENDIX A: ORDER, Court of Appeals for the Fourth Circuit (August 11, 2026).....	1a
APPENDIX B: OPINION, Court of Appeals for the Fourth Circuit (July 15, 2026).....	3a
APPENDIX C: ORDER, Supreme Court of the United States, (March 23, 2026)	9a
APPENDIX D: ORDER, Court of Appeals for the Fourth Circuit (September 2, 2025).....	11a
APPENDIX E: OPINION, Court of Appeals for the Fourth Circuit (February 25, 2025).....	12a
APPENDIX F: ORDER, District Court for the District of South Carolina (March 12, 2024)...	17a
APPENDIX G: ORDER, District Court for the District of South Carolina (December 13, 2023)	36a
APPENDIX H: Constitutional and Statutory Provisions:	
U.S. Const. Amend. XI.....	54a
42 U.S.C. § 1983.....	54a
S.C. Const. Art. X, § 7	54a
S.C. Const. Art. X, § 8	55a
S.C. Code Ann. § 1-11-140	55a

APPENDIX TABLE OF CONTENTS—Continued

	Page
S.C. Code Ann. § 1-11-445	57a
S.C. Code Ann. § 4-1-10	58a
S.C. Code Ann. § 4-1-80	58a
S.C. Code Ann. § 4-9-25	59a
S.C. Code Ann. § 4-9-30	59a
S.C. Code Ann. § 4-9-33	60a
S.C. Code Ann. § 4-9-140	60a
S.C. Code Ann. § 15-78-30	62a
S.C. Code Ann. § 15-78-140	62a
S.C. Code Ann. § 17-13-40	63a
S.C. Code Ann. § 23-13-60	63a
S.C. Code Ann. § 23-13-70	63a

APPENDIX A

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

[Filed: August 11, 2026]

No. 24-1238
(2:23-cv-02149-DCN)

RANDALL WILLIAMS, Personal Representative of the Estates of Shanice R. Dantzler-Williams and Miranda R. Dantzler-Williams; BETTY SIMMONS, Personal Representative of the Estate of Stephanie Dantzler

Plaintiffs - Appellants

v.

CHARLESTON COUNTY SHERIFF'S OFFICE

Defendant - Appellee

and

CHARLESTON COUNTY; EMILY PELLETIER; CLINTON SACKS

Defendants

ACLU OF SOUTH CAROLINA

Amicus Supporting Rehearing Petition

ORDER

The court denies the petition for rehearing and rehearing en banc. No judge requested a poll under Fed. R. App. P. 40 on the petition for rehearing en

banc. Entered at the direction of the panel: Judge Harris, Judge Heytens, and Judge Berner.

For the Court

/s/ Nwamaka Anowi, Clerk

APPENDIX B

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 24-1238

RANDALL WILLIAMS, Personal Representative of the Estates of Shanice R. Dantzler-Williams and Miranda R. Dantzler-Williams; BETTY SIMMONS, Personal Representative of the Estate of Stephanie Dantzler,

Plaintiffs - Appellants,

v.

CHARLESTON COUNTY SHERIFF'S OFFICE,

Defendant - Appellee,

and

CHARLESTON COUNTY; EMILY PELLETIER; CLINTON SACKS,

Defendants.

On Remand from the Supreme Court of the United States. (S. Ct. No. 25-640)

Submitted: November 14, 2024
Decided: July 15, 2026

Before HARRIS, HEYTENS, and BERNER, Circuit Judges.

Affirmed by unpublished per curiam opinion.

ON BRIEF: Richard A. Hricik, LAW OFFICES OF RICHARD A. HRICIK, PA, Mount Pleasant, South Carolina; Clifford Bush, III, THE LAW OFFICE OF CLIFFORD BUSH, III, LLC, Beaufort, South Carolina, for Appellants. Elloree A. Ganes, Evan M. Sobocinski, Deborah Harrison Sheffield, HOOD LAW FIRM, LLC, Charleston, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

The Supreme Court vacated our previous decision and directed us to reconsider this case in light of *Galette v. New Jersey Transit Corp.*, 146 S. Ct. 854 (2026). *Williams v. Charleston Cnty. Sheriff's Off.*, 2026 WL 795252 (U.S. Mar. 23, 2026). It is well-settled that such orders do not necessarily indicate that the vacated decision was incorrect or needs to be revised. *United States v. Canada*, 123 F.4th 159, 160 (4th Cir. 2024). We have carefully reviewed *Galette* and our previous decision in this case and conclude they are fully consistent. In particular, *Galette* addressed the implications of the corporate form for the Eleventh Amendment analysis, and its central holding – that the New Jersey Transit Corporation is not an arm of the state entitled to Eleventh Amendment immunity because it is "a corporation with the traditional corporate powers to sue and be sued, hold property, make contracts, and incur debt," 146 S. Ct. at 868 – does not supersede our court's controlling precedent or

directly bear on this case. We therefore re-adopt and re-issue our previous decision in this case.

* * *

This appeal arises from a heartbreaking accident. On Mother's Day in 2022, Stephanie Dantzler and her adult daughters, Shanice and Miranda Dantzler-Williams, were driving in Charleston County, South Carolina. Nearby, two Charleston County sheriffs, Deputies Emily Pelletier and Clinton Sacks, were responding to a non-emergency report of a stalled vehicle. Without activating her car's emergency lights or sirens, Pelletier sped through a stop sign, crossed multiple lanes of traffic, and struck the women's car. Dantzler and her daughters suffered catastrophic injuries, and died shortly after.

The plaintiffs in this action are Randall Williams, representing the estate of his daughters Shanice and Miranda, and Betty Simmons, representing the estate of her daughter Dantzler. In their complaint, the plaintiffs brought multiple claims against Deputies Pelletier and Sacks, in both their individual and official capacities; Charleston County; and the Charleston County Sheriff's Office. This appeal involves only some of the plaintiffs' claims against one of the defendants, the Charleston County Sheriff's Office.[1]

The County Sheriff's Office filed a motion to dismiss the plaintiffs' "*Monell*" claims against it, in which the

---

[1] The plaintiffs' many other claims will proceed before the district court, and we of course express no view as to their merits. We may review the district court's ruling as to this subset of the plaintiffs' claims because the district court certified its order as a final judgment under Rule 54(b) of the Federal Rules of Civil Procedure. *See Williams v. Pelletier*, 2024 WL 1075444, at *1 (D.S.C. Mar. 12, 2024).

plaintiffs sought to hold the Sheriff's Office liable under 42 U.S.C. § 1983 as a municipality. *See Monell v. Dep't of Soc. Servs. of City of N.Y.*, 436 U.S. 658 (1978). The Sheriff's Office invoked the state's Eleventh Amendment immunity from suit, contending that is not a municipality but instead an "arm of the state" for purposes of the Eleventh Amendment.

The district court agreed and dismissed the § 1983 claims against the Sheriff's Office. *Williams v. Pelletier*, 2023 WL 8627812, at *5 (D.S.C. Dec. 13, 2023). In *Cromer v. Brown*, 88 F.3d 1315 (4th Cir. 1996), as the district court explained, the Fourth Circuit had already considered the Eleventh Amendment status of South Carolina's county sheriff's offices, and determined that they are agents of the state protected from suit by Eleventh Amendment immunity. *See Williams*, 2023 WL 8627812, at *3. The court rejected the plaintiffs' argument that an analysis under the factors laid out in an earlier Fourth Circuit case pointed in a different direction, indicating that the Sheriff's Office should be treated as a municipality rather than a state entity. *See id.* at *5 (discussing *Ram Ditta ex rel. Ram Ditta v. Md. Nat'l Cap. Park & Plan. Comm'n*, 822 F.2d 456 (4th Cir. 1987)). Those factors, the court reasoned, were incorporated into the Fourth Circuit's subsequent decision in *Cromer*, and that decision remained "controlling precedent" that foreclosed the plaintiffs' position. *Id.*

We review the district court's judgment de novo, *see Hutto v. S.C. Ret. Sys.*, 773 F.3d 536, 542 (4th Cir. 2014), and we affirm for substantially the same reasons given by the district court.

The Eleventh Amendment immunizes "unconsenting State[s]" from suit in federal court, and its protections extend to "agencies that may be properly characterized

as 'arm[s] of the State.'" *Harter v. Vernon*, 101 F.3d 334, 337 (4th Cir. 1996) (quoting *Mt. Healthy City Bd. of Educ. v. Doyle*, 429 U.S. 274, 280 (1977)). To determine whether an entity like the County Sheriff's Office is an arm of the state entitled to Eleventh Amendment immunity, this court employs a well-established four-factor balancing test. *See Ram Ditta*, 822 F.2d at 457–58. And in *Cromer*, we held, after considering the "factors relevant to the immunity analysis," that a South Carolina county sheriff is an "arm of the state" protected from suit by the Eleventh Amendment. 88 F.3d at 1332. That is enough to resolve this case.

On appeal, as before the district court, the plaintiffs argue that an independent analysis of the *Ram Ditta* factors would show that the County Sheriff's Office is *not* a state agency for these purposes, and that *Cromer* should not be followed because it pays insufficient attention to those factors. It is true that *Cromer*'s analysis is brief and does not expressly address *Ram Ditta*, instead invoking generally the "relevant factors." But *Cromer* is directly on point, and its binding effect does not turn on the length or even the persuasiveness of its reasoning. *Cromer* has not been abrogated by statute or superseded by an en banc or Supreme Court decision, which means that we – like the district court – are bound to follow it. *See United States v. Ruhe*, 191 F.3d 376, 388 (4th Cir. 1999) (setting out general rule that a "simple panel" is bound by prior Fourth Circuit precedent "absent contrary law from an en banc or Supreme Court decision"); *Payne v. Taslimi*, 998 F.3d 648, 654 & n.2 (4th Cir. 2021)

(describing duty to follow prior circuit precedent as "mechanical mandate").[2]

Accordingly, we affirm the judgment of the district court.

AFFIRMED

[2] In support of their argument under the *Ram Ditta* factors, the plaintiffs have asked us to take judicial notice of certain publicly available facts about the fiscal workings of Charleston County and the State of South Carolina Insurance Reserve Fund, through which the County Sheriff's Office is insured. Because we now hold that we are bound by *Cromer* and not at liberty to undertake a new and independent analysis, we deny that motion as moot.

APPENDIX C

SUPREME COURT OF THE UNITED STATES

No. 25-640

RANDALL WILLIAMS, AS PERSONAL REPRESENTATIVE OF THE ESTATES OF SHANICE R. DANTZLER-WILLIAMS AND MIRANDA R. DANTZLER-WILLIAMS, *et al.*,

Petitioners,

v.

CHARLESTON COUNTY SHERIFF'S OFFICE, *et al.*

ON PETITION FOR WRIT OF CERTIORARI to the United States Court of Appeals for the Fourth Circuit.

THIS CAUSE having been submitted on the petition for writ of certiorari and the response thereto.

ON CONSIDERATION WHEREOF, it is ordered and adjudged by this Court that the petition for writ of certiorari is granted. The judgment of the above court in this cause is vacated, and the case is remanded to the United States Court of Appeals for the Fourth Circuit for further consideration in light of *Galette* v. *New Jersey Transit Corp.*, 607 U. S. ___ (2026)

IT IS FURTHER ORDERED that the petitioners, Randall Williams, as Personal Representative of the Estates of Shanice R. Dantzler-Williams and Miranda R. Dantzler-Williams, et al., recover from Charleston County Sheriff's Office, et al., Three Hundred Dollars ($300.00) for costs herein expended.

March 23, 2026

Clerk's costs: $300.00

A True Copy SCOTT S. HARRIS
Clerk of the Supreme Court of the United States
/s/ Scott S. Harris

APPENDIX D

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

[Filed: September 2, 2025]

No. 24-1238
(2:23-cv-02149-DCN)

RANDALL WILLIAMS, Personal Representative of the Estates of Shanice R. Dantzler-Williams and Miranda R. Dantzler-Williams; BETTY SIMMONS, Personal Representative of the Estate of Stephanie Dantzler

Plaintiffs - Appellants

v.

CHARLESTON COUNTY SHERIFF'S OFFICE

Defendant - Appellee

and

CHARLESTON COUNTY; EMILY PELLETIER; CLINTON SACKS

Defendants

ORDER

The petition for rehearing en banc was circulated to the full court. No judge requested a poll under Fed. R. App. P. 40. The court denies the petition for rehearing en banc.

For the Court

/s/ Nwamaka Anowi, Clerk

APPENDIX E

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 24-1238

RANDALL WILLIAMS, Personal Representative of the Estates of Shanice R. Dantzler-Williams and Miranda R. Dantzler-Williams; BETTY SIMMONS, Personal Representative of the Estate of Stephanie Dantzler,

Plaintiffs - Appellants,

v.

CHARLESTON COUNTY SHERIFF'S OFFICE,

Defendant - Appellee,

and

CHARLESTON COUNTY; EMILY PELLETIER; CLINTON SACKS,

Defendants.

Appeal from the United States District Court for the District of South Carolina at Charleston.
David C. Norton, U.S. District Court Judge.
(2:23-cv-02149-DCN)

Submitted: November 14, 2024
Decided: February 25, 2025

Before HARRIS, HEYTENS, and BERNER,
Circuit Judges.

Affirmed by unpublished per curiam opinion.

ON BRIEF: Richard A. Hricik, LAW OFFICES OF RICHARD A. HRICIK, PA, Mount Pleasant, South Carolina; Clifford Bush, III, THE LAW OFFICE OF CLIFFORD BUSH, III, LLC, Beaufort, South Carolina, for Appellants. Elloree A. Ganes, Evan M. Sobocinski, Deborah Harrison Sheffield, HOOD LAW FIRM, LLC, Charleston, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

This appeal arises from a heartbreaking accident. On Mother's Day in 2022, Stephanie Dantzler and her adult daughters, Shanice and Miranda Dantzler-Williams, were driving in Charleston County, South Carolina. Nearby, two Charleston County sheriffs, Deputies Emily Pelletier and Clinton Sacks, were responding to a non-emergency report of a stalled vehicle. Without activating her car's emergency lights or sirens, Pelletier sped through a stop sign, crossed multiple lanes of traffic, and struck the women's car. Dantzler and her daughters suffered catastrophic injuries, and died shortly after.

The plaintiffs in this action are Randall Williams, representing the estate of his daughters Shanice and Miranda, and Betty Simmons, representing the

estate of her daughter Dantzler. In their complaint, the plaintiffs brought multiple claims against Deputies Pelletier and Sacks, in both their individual and official capacities; Charleston County; and the Charleston County Sheriff's Office. This appeal involves only some of the plaintiffs' claims against one of the defendants, the Charleston County Sheriff's Office.[1]

The County Sheriff's Office filed a motion to dismiss the plaintiffs' "*Monell*" claims against it, in which the plaintiffs sought to hold the Sheriff's Office liable under 42 U.S.C. § 1983 as a municipality. *See Monell v. Dep't of Soc. Servs. of City of N.Y.*, 436 U.S. 658 (1978). The Sheriff's Office invoked the state's Eleventh Amendment immunity from suit, contending that is not a municipality but instead an "arm of the state" for purposes of the Eleventh Amendment.

The district court agreed and dismissed the § 1983 claims against the Sheriff's Office. *Williams v. Pelletier*, No. 2:23-CV-02149-DCN, 2023 WL 8627812, at *5 (D.S.C. Dec. 13, 2023). In *Cromer v. Brown*, 88 F.3d 1315 (4th Cir. 1996), as the district court explained, the Fourth Circuit had already considered the Eleventh Amendment status of South Carolina's county sheriff's offices, and determined that they are agents of the state protected from suit by Eleventh Amendment immunity. *See Williams*, 2023 WL 8627812, at *3. The court rejected the plaintiffs'

[1] The plaintiffs' many other claims will proceed before the district court, and we of course express no view as to their merits. We may review the district court's ruling as to this subset of the plaintiffs' claims because the district court certified its order as a final judgment under Rule 54(b) of the Federal Rules of Civil Procedure. *See Williams v. Pelletier*, No. 2:23-CV-02149-DCN, 2024 WL 1075444, at *1 (D.S.C. Mar. 12, 2024).

argument that an analysis under the factors laid out in an earlier Fourth Circuit case pointed in a different direction, indicating that the Sheriff's Office should be treated as a municipality rather than a state entity. *See id.* at *5 (discussing *Ram Ditta ex rel. Ram Ditta v. Md. Nat'l Cap. Park & Plan. Comm'n*, 822 F.2d 456 (4th Cir. 1987)). Those factors, the court reasoned, were incorporated into the Fourth Circuit's subsequent decision in *Cromer*, and that decision remained "controlling precedent" that foreclosed the plaintiffs' position. *Id.*

We review the district court's judgment de novo, *see Hutto v. S.C. Ret. Sys.*, 773 F.3d 536, 542 (4th Cir. 2014), and we affirm for substantially the reasons given by the district court.

The Eleventh Amendment immunizes "unconsenting State[s]" from suit in federal court, and its protections extend to "agencies that may be properly characterized as 'arm[s] of the State.'" *Harter v. Vernon*, 101 F.3d 334, 337 (4th Cir. 1996) (quoting *Mt. Healthy City Bd. of Educ. v. Doyle*, 429 U.S. 274, 280 (1977)). To determine whether an entity like the County Sheriff's Office is an arm of the state entitled to Eleventh Amendment immunity, this court employs a well-established four-factor balancing test. *See Ram Ditta*, 822 F.2d at 457–58. And in *Cromer*, we held, after considering the "factors relevant to the immunity analysis," that a South Carolina county sheriff is an "arm of the state" protected from suit by the Eleventh Amendment. 88 F.3d at 1332. That is enough to resolve this case.

On appeal, as before the district court, the plaintiffs argue that an independent analysis of the *Ram Ditta* factors would show that the County Sheriff's Office is *not* a state agency for these purposes, and that *Cromer*

should not be followed because it pays insufficient attention to those factors. It is true that *Cromer*'s analysis is brief and does not expressly address *Ram Ditta*, instead invoking generally the "relevant factors." But *Cromer* is directly on point, and its binding effect does not turn on the length or even the persuasiveness of its reasoning. *Cromer* has not been abrogated by statute or superseded by an en banc or Supreme Court decision, which means that we – like the district court – are bound to follow it. *See United States v. Ruhe*, 191 F.3d 376, 388 (4th Cir. 1999) (setting out general rule that a "simple panel" is bound by prior Fourth Circuit precedent "absent contrary law from an *en banc* or Supreme Court decision"); *Payne v. Taslimi*, 998 F.3d 648, 654 & n.2 (4th Cir. 2021) (describing duty to follow prior circuit precedent as "mechanical mandate").[2]

Accordingly, we affirm the judgment of the district court.

AFFIRMED

[2] In support of their argument under the *Ram Ditta* factors, the plaintiffs have asked us to take judicial notice of certain publicly available facts about the fiscal workings of Charleston County and the State of South Carolina Insurance Reserve Fund, through which the County Sheriff's Office is insured. Because we now hold that we are bound by *Cromer* and not at liberty to undertake a new and independent analysis, we deny that motion as moot.

APPENDIX F

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

No. 2:23-cv-02149-DCN

RANDALL WILLIAMS, *Personal Representative of the Estates of Shanice R. Dantzler-Williams and Miranda R. Dantzler-Williams*; and BETTY SIMMONS, *Personal Representative of the Estate of Stephanie Dantzler*;

Plaintiffs,

vs.

EMILY PELLETIER; CLINTON SACKS; CHARLESTON COUNTY SHERIFF'S OFFICE; and CHARLESTON COUNTY,

Defendants.

ORDER

The following matter is before the court on plaintiffs Randall Williams ("Williams") and Betty Simmons ("Simmons") (together, "plaintiffs") motion for entry of judgment under Fed. R. Civ. P. 54(b) so that they can proceed in appealing the court's earlier dismissal of plaintiffs' 42 U.S.C. § 1983 claims against defendant Charleston County Sheriff's Office ("CCSO"), ECF No. 47. ECF No. 48. For the reasons set forth below, the court grants the motion and certifies the order as a final judgment. The court stays proceedings in this case pending resolution of the appeal.

I. BACKGROUND

This case arises from a car accident which resulted in the deaths of Shanice R. Dantzler-Williams ("Shanice"), Miranda R. Dantzler-Williams ("Miranda"), and Stephanie Dantzler ("Stephanie") (together, the "decedents"). ECF No. 29, Amend. Compl. ¶¶ 79–86. Deputy Emily Pelletier ("Deputy Pelletier") and Deputy Clinton Sacks ("Deputy Sacks") (together, "Deputies") of the CCSO were responding to a non-emergency stalled vehicle and, in so doing, greatly exceeded the speed limits, failed to abide by traffic laws, and failed to engage their respective emergency lights or audible sirens in violation of CCSO policy. *Id.* ¶¶ 38–86. Deputy Pelletier sped past a stop sign and crossed multiple lanes of traffic on Highway 17, ultimately striking a vehicle driven southbound by Shanice at a speed of 73 miles-per-hour. *Id.* ¶ 79. Shanice and Miranda were celebrating Mother's Day with their mother Stephanie. *Id.* ¶ 80. Shanice and passengers Stephanie and Miranda all sustained catastrophic injuries because of the crash and died shortly thereafter. *Id.* ¶¶ 80–86. It is alleged that this incident was not a one-off but rather that CCSO deputies have a history of dangerous driving and misuse of county vehicles, which neither CCSO nor Charleston County (the "County") have adequately addressed. *Id.* ¶¶ 93–98.

Plaintiffs filed this action in the Charleston County Court of Common Pleas on May 15, 2023. *Williams v. Pelletier,* No. 2023-CP-1002308 (Charleston Cnty. Ct. C.P. May 15, 2023), ECF No. 1-1, Compl. On May 19, 2023, Deputy Pelletier removed the action to federal court pursuant to 28 U.S.C. §§ 1441 and 1446. ECF No. 1. On October 4, 2023, plaintiffs filed an amended complaint, now the operative complaint, on behalf of

the estates of the decedents, with Williams representing his daughters Shanice and Miranda and with Simmons representing her daughter Stephanie. Amend. Compl. Plaintiffs bring ten causes of action.[1] *Id.* ¶¶ 126–247.

On December 13, 2023, this court issued an order granting defendant CCSO's motion to dismiss for failure to state a claim and dismissed plaintiffs' 42 U.S.C. § 1983 claims as asserted against CCSO upon finding CCSO entitled to Eleventh Amendment immunity. ECF No. 47 (the "December Order"). On December 22, 2023, plaintiffs filed a motion for Rule 54(b) certification of the December Order and to stay further proceedings. ECF No. 48. On January 5, 2024, Deputy Sacks and CCSO filed a response in opposition, ECF No. 49, to which plaintiffs replied on February 16, 2024, ECF No. 51. As such, the motion has been fully briefed and is now ripe for review.

---

[1] Plaintiffs allege: (1) negligence/negligence *per se* by all defendants, Compl. ¶¶ 126–31; (2) negligent training by CCSO of Deputies Pelletier and Sacks, *id.* ¶¶ 132–35; (3) negligent supervision by CCSO and the County of Deputies Pelletier and Sacks, *id.* ¶¶ 136–44; (4) violation of the decedents' civil rights pursuant to 42 U.S.C. § 1983 by Deputies Pelletier and Sacks, *id.* ¶¶ 145–49; (5) municipal liability for an unconstitutional official policy pursuant to 42 U.S.C. § 1983 by CCSO and the County, *id.* ¶¶ 227–30; (6) municipal liability for an unconstitutional unofficial policy or custom pursuant to 42 U.S.C. § 1983 by CCSO and the County; *id.* ¶¶ 231–34; (7) municipal liability for inadequate training and supervision pursuant to 42 U.S.C. § 1983 by CCSO and the County, *id.* ¶¶ 235–40; (8) survival action and damages pursuant to S.C. Code Ann. § 15 5-90, *id.* ¶¶ 241–42; (9) wrongful death action and damages pursuant to S.C. Code Ann. § 15-51-10, *id.* ¶¶ 243–45; and (10) entitlement to reasonable costs and attorney's fees pursuant to 42 U.S.C. § 1988, *id.* ¶¶ 246–47.

II. STANDARD

Rule 54(b) provides, "[w]hen an action presents more than one claim for relief . . . or . . . when multiple parties are involved, the court may direct entry of a final judgment as to one or more, but fewer than all, claims or parties only if the court expressly determines that there is no just reason for delay." Fed. R. Civ. P. 54(b). The chief purpose of a Rule 54(b) certification is to prevent piecemeal appeals when multiple claims are resolved in the course of a single lawsuit. *Braswell Shipyards, Inc. v. Beazer E., Inc.,* 2 F.3d 1331, 1335 (4th Cir. 1993). The Rule also allows the district court to provide relief to litigants that would suffer undue hardship if final judgment were not entered on the adjudicated claim prior to the resolution of the unadjudicated claims. *Id*. Rule 54(b) certification is recognized as the exception rather than the norm. *Braswell Shipyards,* 2 F.3d at 1335. "It should neither be granted routinely, . . ., nor as an accommodation to counsel." *Id.* (internal citations omitted).

The court's determination of whether to enter final judgment involves two steps. *Curtiss-Wright Corp. v. Gen. Elec. Co.,* 446 U.S. 1, 7–8 (1980). First, the court must determine whether the judgment is final with respect to the relevant claims or parties. *Id.* at 7. Second, the court must determine whether there is any "just reason for delay" in entering a judgment. *Id.* at 8. In this step, the court considers "judicial administrative interests as well as the equities involved." *Id.* The burden to persuade the court that entry of final judgment is appropriate rests with the moving party. *Id.* at 1335. Where the district court is persuaded that Rule 54(b) certification is appropriate, it must state those findings on the record or in its order. *Id.* at 1336.

III. DISCUSSION

Plaintiffs move for an order certifying the December Order and to stay further proceedings pending that appeal. ECF No. 48 at 1. Plaintiffs indicate that they consulted with the defendants regarding this motion, with the following results: CCSO opposes Rule 54(b) certification, the County and Deputy Sacks do not consent, but Deputy Pelletier does not oppose. *Id.*

The court finds that its previous conclusions reached in its December Order bear repeating because plaintiffs now seek to stay litigation to appeal that decision to the Fourth Circuit. *See* ECF Nos. 48; 47. The December Order resolved a motion to dismiss plaintiffs' 42 U.S.C. § 1983 *Monell*[2] liability causes of action as asserted against CCSO. ECF No. 47 at 14. In short, this court found that South Carolina sheriff's offices are arms of the state and thereby are entitled to Eleventh Amendment immunity. *Id.* at 9–14 ("[P]laintiffs face a Sisyphean battle to demonstrate that the large body of cases that have found sheriffs and sheriff's offices to be arms of the state of South Carolina do not apply to the instant facts.").

In reaching this conclusion, the court evaluated, and ultimately rejected, plaintiffs' arguments that a Fourth Circuit decision analyzing North Carolina law and determining that North Carolina sheriffs are county actors, not state actors, should be read to overrule or abrogate a Fourth Circuit case finding South Carolina sheriffs to be state actors. *Id.* at 12–13 (first citing *Harter v. Vernon,* 101 F.3d 334, 340–41 (4th Cir. 1996) (finding North Carolina sheriffs to be county actors); then citing *Cromer v. Brown,* 88 F.3d 1315 (4th Cir. 1996) (finding South Carolina sheriffs

[2] *Monell v. N.Y. Dep't of Soc. Servs.,* 436 U.S. 658, 701 (1978).

to be state actors); and then citing *Gulledge v. Smart,* 691 F. Supp. 947 (D.S.C. 1988), *aff'd,* 878 F.2d 379 (4th Cir. 1989) (same)). To reiterate, this court found that *Harter* did not abrogate or overrule *Cromer* because the Fourth Circuit expressly considered the differences in North Carolina and South Carolina statutes when it reached differing conclusions in *Harter* versus *Cromer*. *Id.* at 13 (citing *Harter,* 101 F.3d at 341 n.2). Consequently, binding Fourth Circuit law required the court to find that CCSO was a state actor entitled to Eleventh Amendment immunity. *Id.* Having set forth the relevant procedural and substantive history, the court turns to the two-step standard of review for deciding whether to direct entry of final judgment.

A. Final Judgment

"A 'final decision' generally is one which ends the litigation on the merits and leaves nothing for the court to do but execute the judgment." *Kinsale Ins. Co. v. JDBC Holdings, Inc.,* 31 F.4th 870, 873 (4th Cir. 2022) (quoting *Catlin v. United States,* 324 U.S. 229, 233 (1945)). "Accordingly, a final judgment is certifiable under Rule 54(b) and appealable under § 1291 if the judgment is 'final in the sense that it is an ultimate disposition of an individual claim entered in the court of a multiple claims action.'" *Id.* (quoting *MCI Constructors, LLC v. City of Greensboro,* 610 F.3d 849, 855 (4th Cir. 2010)).

Plaintiffs assert that the December Order is an ultimate disposition and final judgment of all *Monell* liability claims asserted against CCSO as defined in Rule 54(b). ECF No. 48 at 3 (citing Fed. R. Civ. P. 54(b)). Defendants do not challenge that the December Order was an ultimate disposition and final judgment on those claims under this first step. *See* ECF No. 49.

The court likewise finds that the December Order qualifies as a final judgment on those claims and turns to the second step of the analysis.

B. Just Reason for Delay

In this step, the court considers "judicial administrative interests as well as the equities involved." *Curtiss-Wright Corp.,* 446 U.S. at 8. "In determining whether there is no just reason for the delay in the entry of judgment, the district court is instructed to conduct a 'case-specific' inquiry, keeping in mind that this inquiry is 'tilted from the start against [the] fragmentation of appeals.'" *Kinsale Ins. Co.,* 31 F.4th at 874 (quoting *Braswell Shipyards,* 2 F.3d at 1335) (alteration in original quotation)). The Fourth Circuit has identified five factors which speak to the equities:

> (1) the relationship between the adjudicated and unadjudicated claims; (2) the possibility that the need for review might or might not be mooted by future developments in the district court; (3) the possibility that the reviewing court might be obliged to consider the same issue a second time; (4) the presence or absence of a claim or counterclaim which could result in a set-off against the judgment sought to be made final; [and] (5) miscellaneous factors such as delay, economic and solvency considerations, shortening the time of trial, frivolity of competing claims, expense, and the like

Braswell Shipyards, 2 F.3d at 1335–36 (quoting *Allis-Chalmers Corp. v. Phila. Elec. Co.,* 521 F.2d 360, 364 (3d Cir. 1975)).

Plaintiffs contend that there is no just reason for the delay of the entry of judgment. ECF No. 48 at 3. They

argue that the issue of Eleventh Amendment immunity's impact on the municipal liability causes of action "are purely questions of law and are in no way connected to the merits of the remaining unadjudicated claims." *Id.* at 4. Plaintiffs cite to *Pratt-Miller v. Arthur,* 701 F. App'x 191, 192 (4th Cir. 2017) (per curiam), and argue that it demonstrates that the first factor weighs in favor of certification.[3] *Id.* Accordingly, under the first factor, plaintiffs conclude that the relationship between the adjudicated and unadjudicated claims favors certifying the judgment. *Id.* Moreover, plaintiffs emphasize that the Supreme Court and the Fourth Circuit have both held that the *denial* of a motion to dismiss based on Eleventh Amendment immunity is immediately appealable, even where claims against other defendants remain pending in the district court, and plaintiffs urge the court to extend that logic to scenarios where courts *grant* a motion to dismiss on those same grounds.[4] *Id.*

---

[3] In *Pratt-Miller,* the District Court for the Eastern District of Virginia granted Rule 54(b) certification on its summary judgment order dismissing *Monell* Claims against a deputy sheriff in her official capacity on Eleventh Amendment immunity grounds. 701 F. App'x at 192–93. In light of the resulting opinion, plaintiffs argue that the Fourth Circuit presumably concluded it had jurisdiction to consider the appeal despite the other pending claims which remained against that deputy in the district court. *See id.*

[4] The denial of Eleventh Amendment sovereign immunity is immediately appealable through an interlocutory appeal under the collateral order doctrine. *P.R. Aqueduct & Sewer Auth. v. Metcalf & Eddy, Inc.,* 506 U.S. 139, 141 (1993). In *P.R. Aqueduct,* the Supreme Court explained the rationale behind the rule was that upon the denial of immunity, "the central benefits of qualified immunity—avoiding the costs and general consequences of subjecting public officials to the risks of discovery and trial—would be forfeited," absent immediate appeal. *Id.* at 144–45. The Court clearly defined that where a district court

at 5–6 (citing *Mitchell v. Forsyth,* 472 U.S. 511, 530 (1985)).

In reference to the second factor, plaintiffs note that appellate review of CCSO's entitlement to Eleventh Amendment immunity cannot be mooted by any further developments in the district court and no further factual questions or findings are germane to the appeal of that question. *Id.* at 6 (citing *Fox v. Balt. City Police Dep't,* 201 F.3d 526, 531–32 (4th Cir. 2000)). Similarly, and in reference to the third factor, plaintiffs emphasize that there is no chance that the reviewing court will consider CCSO's Eleventh

---

denies a claim of Eleventh Amendment immunity, states and state entities that claim to be "arms of the State" may take advantage of the collateral order doctrine to appeal that order. *Id.* at 147.

Plaintiffs in this case ask the court to find the inverse to be equally true and that granting Eleventh Amendment immunity should qualify as a final judgment and merit an interlocutory appeal to the Fourth Circuit. ECF No. 48 at 5–6. Fourth Circuit precedent indicates that the collateral order doctrine does *not* confer appellate jurisdiction where a court grants immunity from suit, but where other claims remain pending in the district court, because that grant of immunity may be fully and effectively reviewed after final judgment. *Baird v. Palmer,* 114 F.3d 39, 43 (4th Cir. 1997). The Fourth Circuit expressly considered whether an order granting summary judgment based on qualified immunity should permit the immediate appeal under *Cohen v. Beneficial Indus. Loan Corp.,* 337 U.S. 541, 546 (1949), and found that a non-final order granting qualified immunity may not be immediately appealed as a collateral order. *Baird,* 114 F.3d at 43. To be clear, plaintiffs are not seeking to appeal the December Order under the collateral order doctrine. *See generally* ECF No. 48. Instead, they ask the court to certify the December Order as final pursuant to Fed. R. Civ. P. 54(b) so that it becomes immediately appealable. *Id.* That determination rests within the sound discretion of the district court. *See Braswell Shipyards,* 2 F.3d at 1335–36.

Amendment immunity twice. *Id.* at 6–7. That is because CCSO is purportedly the only named party that can assert that immunity and the court dismissed all the municipal liability claims asserted against CCSO in its December Order. *Id.* Plaintiffs contend that the fourth factor is irrelevant to this case. *Id.* In reference to the fifth factor, plaintiffs claim that if they are forced to wait until all the remaining claims in this case are litigated before an appeal is allowed, there is a strong possibility that plaintiffs, if successful on appeal, would be forced to relitigate the entire case. *Id.* at 7. Further, plaintiffs inversely note that "if the appeal is unsuccessful, the remaining issues for trial become narrowed and the trial ultimately shortened." *Id.* Given the importance of the claims against CCSO and the foregoing considerations, plaintiffs believe that failure to certify the December Order "would result in unreasonable cost and not serve judicial economy." *Id.* Moreover, plaintiffs indicated at the hearing the Deputy Pelletier is facing a criminal case in addition to this civil case.[5] ECF No. 52. They suggested that this civil case may be stayed pending disposition of the parallel criminal proceedings, such that a delay and certification of the immunity question would not prejudice the defendants. *See id.*

---

[5] The court has identified three criminal prosecutions for reckless homicide brought by the state of South Carolina against Deputy Pelletier, presumably based on the same fatal car crash that forms a basis for the instant civil action. *See State v. Emily Nicole Pelletier,* Case No. 2022A1011400016 (Charleston Cnty. Ct. Gen. Sess. indicted June 13, 2023); *State v. Emily Nicole Pelletier,* Case No. 2022A1011400017 (Charleston Cnty. Ct. Gen. Sess. indicted June 13, 2023); *State v. Emily Nicole Pelletier,* Case No. 2022A1011400018 (Charleston Cnty. Ct. Gen. Sess. indicted June 13, 2023).

Finally, plaintiffs filed a one-page brief identifying a recently decided case from the Fourth Circuit in which the court considered a 42 U.S.C. § 1983 claim brought against a South Carolina sheriff's office. ECF No. 51 at 1 (citing *English v. Clark,* 90 F.4th 636, 649–50 (4th Cir. 2024)). Plaintiffs cite that case to assert that South Carolina sheriffs' entitlement to Eleventh Amendment immunity is not well-settled law and the Fourth Circuit has indicated, through *English,* that it is open to the parties' arguments as to South Carolina sheriffs' immunity. *Id.; see also* ECF No. 52. In relevant part, plaintiffs claimed that the Insurance Reserve Fund ("IRF") that the County used to purchase its County Automobile Policy and County Tort Policy insurance does not use any state funds, and consequently Charleston County functionally self-insures, much like Richland County—the defendant in *English.* ECF No. 52; *see also* Amend. Compl. ¶¶ 150–221. Plaintiffs set forth those allegations in their amended complaint and asserted that the attachments to the complaint, ECF Nos. 29-5 (IRF Audit); 29-6 (American Southern Insurance Company Policy), and their response brief to the motion to dismiss, ECF No. 34, sufficiently establish the record—consisting of certified public records capable of judicial notice[6]—such that the Fourth Circuit could meaningfully rule on the question of Eleventh Amendment immunity in relation to the factors identified by *Ram Ditta ex rel. Ram Ditta v. Md. Nat'l*

[6] While additional discovery may prove helpful to determine the question of state funding, plaintiffs indicated at the hearing that they are confident the current record is sufficient to rule on the question of Eleventh Amendment immunity. ECF No. 52.

Cap. Park & Plan. Comm'n, 822 F.2d 456, 457 (4th Cir. 1987).[7]

Deputy Sacks and CCSO disagree and claim that "the requested certification will not serve to settle novel legal questions, resolve conflicting decisions, or materially advance the progress of the case." ECF No.

---

[7] The Fourth Circuit enumerated a four-factor test to determine whether an entity, other than the state itself, is eligible for Eleventh Amendment immunity:

> While many factors must be considered in determining whether an entity is the *alter ego* of the state, it is generally held that the most important consideration is [1] whether the state treasury will be responsible for paying any judgment that might be awarded. . . . Other important inquiries underlying our consideration of eleventh amendment immunity include, but are not necessarily limited to, [2] whether the entity exercises a significant degree of autonomy from the state, [3] whether it is involved with local versus statewide concerns, and [4] how it is treated as a matter of state law.

Ram Ditta, 822 F.2d at 457–58; *see also S.C. Dep't of Disabilities & Special Needs v. Hoover Universal, Inc.,* 535 F.3d 300, 303 (4th Cir. 2008). The original *Ram Ditta* analysis has been adapted consistent with the Supreme Court's decision in *Hess v. Port Auth. Trans-Hudson Corp.,* 513 U.S. 30 (1994). The Court considered how to resolve the primary question where the four factors do not lead to a single conclusion and declared that two considerations remain paramount: (1) to prevent federal court judgments from depleting a state's treasury and (2) to preserve the dignity of the states. *Id.* at 39, 47. "Under this sovereign dignity inquiry, a court must, in the end, determine whether the governmental entity is so connected to the State that the legal action against the entity would, despite the fact that the judgment will not be paid from the State treasury, amount to the indignity of subjecting a State to the coercive process of judicial tribunals at the instance of private parties." *Cash v. Granville Cnty. Bd. of Educ.,* 242 F.3d 219, 224 (4th Cir. 2001) (quoting *Seminole Tribe of Fla. v. Florida,* 517 U.S. 44, 58 (1996)).

49 at 4. In other words, they focus on the fifth factor which provides for miscellaneous considerations such as delay, economic and solvency considerations, shortening the time of trial, and frivolity of competing claims. *See Braswell Shipyards,* 2 F.3d at 1335–36. First, Deputy Sacks and CCSO contend that plaintiffs have not demonstrated that this court's December Order resolved an issue on "a novel question that requires immediate consideration and adjudication by the Fourth Circuit." ECF No. 49 at 3. Given the well-settled precedent, Deputy Sacks and CCSO emphasize that for plaintiffs to be successful on appeal, the Fourth Circuit would need to agree to hear the interlocutory appeal *en banc* "which would be unprecedented." *Id.* Second, Deputy Sacks explains that he "strongly opposes any stay of the district court proceedings" because he intends to seek his own dismissal from this action and "would be prejudiced by a lengthy delay that would result from an interlocutory appeal." *Id.* He foreshadows his argument for dismissal of the claims because "the theory of liability against [him], who was not involved in the collision, is without precedent and is extremely weak, at best." *Id.* Finally, Deputy Sacks and CCSO claim that plaintiffs cannot show that they need the inclusion of CCSO as a defendant to be "made whole" at trial or by settlement, because numerous claims against numerous defendants remain even after the December Order. *Id.* at 3–4. In sum, they conclude that plaintiffs "have not shown that this case is an appropriate candidate for Rule 54(b) certification." *Id.* at 4. At the hearing, defendants argued that *English,* 90 F.4th at 649–50, is readily distinguishable from the instant case because Richland County self-insures the sheriff's office whereas Charleston County does not. ECF No. 52.

The court considers the parties' arguments with respect to the Rule 54(b) factors identified by the Fourth Circuit. It finds that the first two factors weigh in favor of finding no just reason for delay. *See Braswell Shipyards,* 2 F.3d at 1335–36. The first factor weighs in favor because the question of whether CCSO is a state actor entitled to Eleventh Amendment immunity is purely a question of law, which does not impact the unadjudicated claims. *See Fox,* 201 F.3d at 531–32 (observing that an interlocutory appeal of a pure question of law does not counsel against Rule 54(b) certification because nothing could emerge from further district court proceedings that could alter the analysis of the question or render it moot).

The second factor also weighs in favor of certification because appellate review of CCSO's entitlement to Eleventh Amendment immunity cannot be mooted by any further developments in the district court and no further factual questions or findings are germane to the appeal of that question. *See Washington v. Balt. Police Dep't,* 2023 WL 3504202, at *2 (D. Md. May 16, 2023) (finding that the district court had fully resolved all questions as to the officer defendants' liability and therefore no future action in district court would moot appellate review).

The third and fourth factors favor neither party. The third factor—the possibility that the reviewing court might be obliged to consider the same issue a second time—is unclear because even if the court were to consider the same issue a second time, its decision would not change without a change to binding precedent from the Fourth Circuit. *See, e.g., Cromer,* 88 F.3d at 1332. Plaintiffs claim that no other parties in this case are state actors that could assert Eleventh Amendment immunity, meaning it is extremely

unlikely that the court would be obliged to consider the same issue twice. ECF No. 48 at 6–7. CCSO and Deputy Sacks are silent as to this factor. *See* ECF No. 49. Initially, the court notes that since the Deputies are sued in both their official and individual capacities, there is a strong likelihood that they will assert Eleventh Amendment immunity for those claims brought against them in their official capacities. *See* Amend. Compl. ¶¶ 3–4 (suing Deputy Pelletier and Deputy Sacks in their official and individual capacities).

Under South Carolina law, a suit against an officer in his or her official capacity as a deputy sheriff is the same as a suit against the State. *See McCall v. Williams,* 52 F. Supp. 2d 611, 615 (D.S.C. 1999) (citing *Cromer,* 88 F.3d at 1332). As an arm of the State, a deputy sheriff is entitled to Eleventh Amendment immunity from civil damages suits in federal court unless the State expressly waived this immunity. *See id.* (first citing U.S. Const. XI; and then citing *Pennhurst State Sch. & Hosp. v. Halderman,* 465 U.S. 89, 99–100 (1984)). At the hearing, the court confirmed that there are pending § 1983 claims against the Deputies in their official capacities. ECF No. 52. In response, counsel for the Deputies indicated that the deputies will likely assert Eleventh Amendment immunity in response to those claims, though they have not done so yet.[8] *Id.* Thus, the third factor weighs

[8] The court observes that counsel initially indicated at the hearing that Deputies Pelletier and Williams are only being sued in their individual capacities. ECF No. 52. However, a review of the amended complaint indicates that the Deputies are being sued in their individual and official capacities. Amend. Compl. ¶¶ 3–4 ("Defendant Emily Pelletier . . . was acting under color of law and within the course and scope of her employment with Charleston County and agency as a Deputy of the [CCSO]. She is

in favor of neither party because, on the one hand, the court may confront the same question of Eleventh Amendment immunity as to the § 1983 claims against the Deputies in their official capacities, but, on the other hand, the conclusion would almost certainly parallel that of the December Order due to binding Fourth Circuit law. *See* ECF No. 48; *Cromer,* 88 F.3d 1315 (finding South Carolina sheriffs to be state actors); *Gulledge,* 878 F.2d 379 (same); *cf. Harter,* 101 F.3d at 340–41. The fourth factor is mostly irrelevant to this inquiry, as there is no claim or counterclaim that could result in a set-off against the court's December Order granting Eleventh Amendment immunity to CCSO for plaintiffs' 42 U.S.C. § 1983 *Monell* claims.

Finally, there is a dispute over who the fifth factor favors. Upon review of the arguments, the court concludes that it favors finding no just reason for delay. Plaintiffs argue that failure to certify will result in financial hardship and not serve judicial economy because having the Fourth Circuit hear the appeal will either narrow the issues if they are unsuccessful or enable plaintiffs to avoid re-litigation of their entire case if they are successful. *See id.* at 7. In contrast, CCSO and Deputy Sacks emphasize the hardship that

---

also sued in her individual capacity for compensatory and punitive damages under federal law."). To be sure, the causes of action do not specify whether they are brought against the Deputies in their individual or official capacities. *Id.* ¶¶ 126–247. However, when the complaint is read in full, the Deputies are sued in both capacities as is made clear by plaintiff's stipulation that each deputy is "also sued in his [or her] individual capacity." *See id.* ¶¶ 3–4. Upon that clarification at the hearing, counsel for the Deputies indicated they would seek Eleventh Amendment immunity for those claims brought against the Deputies in their official capacities. ECF No. 52.

staying the case and delaying further proceedings will cause to Deputy Sacks and further highlight the futility of the appeal to the Fourth Circuit on well-settled law. ECF No. 49 at 3–4. Plaintiffs' reply seeks to undercut CCSO and Deputy Sacks's futility argument by citing to *English.* ECF No. 51 at 1 (citing *English,* 90 F.4th at 649–50). However, this new authority does not expressly overturn older, binding precedent. Therefore, the defendants' arguments as to the appeal's futility remain relevant to the inquiry.[9]

---

[9] *English* concerned the arrest, coerced false confessions, and year-plus detainment of Kewon English and Earl Powell before their cases were *nolle prossed* and they were released. *English,* 90 F.4th at 640. English and Powell sued individual sheriffs in the Richland County Sheriff's Department as well as the Richland County Sheriff's Department itself under § 1983 for violation of their constitutional rights guaranteed by the First, Fourth, Fifth, Sixth, and Fourteenth Amendments. *Id.* At the outset, the district court granted summary judgment for a sheriff sued in his official capacity and for the Richland County's Sheriff's Department on all counts, "holding that they were arms of the state of South Carolina and thus immune from § 1983 damages suits." *Id.* at 644. *English* reached the Fourth Circuit on appeal from the district court's granting of summary judgment as to English's First, Fourth, and Fourteenth Amendment claims. *Id.* at 645. The Fourth Circuit affirmed the district court's grant of summary judgment and found that there was no constitutional violation of English's rights under the First, Fourth, or Fourteenth Amendments. *Id.* at 645–49.

Relevant to Williams and Simmons's motion, the panel decision noted that since there was no underlying constitutional violation, "[it] need not reach the question of whether those defendants [Richland County Sheriff Lott and the Richland County Sheriff's Department] are entitled to Eleventh Amendment immunity. [It left] that question for another day." *Id.* at 649–50. Plaintiffs interpret this sentence to mean that the Fourth Circuit considers the question of whether South Carolina sheriffs are entitled to Eleventh Amendment immunity to be unsettled law. ECF No. 51 at 1. Such an interpretation is a stretch

However, at the hearing, plaintiffs emphasized that Deputy Pelletier is facing parallel criminal proceedings such that discovery in this civil case will likely be stayed pending their resolution, which undermines CCSO and Deputy Sacks's arguments as to hardship. ECF No. 52. Considering the foregoing, the court finds that the fifth factor weighs in favor of the plaintiffs. Resolution of the Eleventh Amendment appeal will narrow the questions for trial and serve judicial economy, and the alleged hardship that may arise from delay of the case from the Rule 54(b) certification is accorded less weight because of the likelihood of a stay pending the parallel criminal proceedings against Deputy Pelletier.

The court finds that the five factors weigh in favor finding no just reason for delay. Such a finding, taken together with the court's conclusion that its December Order constituted a final judgment, weighs in favor of granting plaintiffs' motion for partial final judgment under Rule 54(b) as to the question of CCSO's Eleventh Amendment immunity for § 1983 *Monell* claims that this court resolved in its December Order.

---

considering the explicit precedent from the Fourth Circuit holding otherwise. *See Cromer,* 88 F.3d 1315; *Gulledge,* 878 F.2d 379; *cf. Harter,* 101 F.3d at 340–41. However, plaintiffs' argument is well taken when that sentence is considered alongside the language in *Cromer,* in which the Fourth Circuit noted it was "unable to discern from the record in this case whether the state pays any premiums on behalf of Greenville County." 88 F.3d at 1332. In essence, plaintiffs claimed at the hearing that the record in this case would allow the Fourth Circuit to revisit its analysis in *Cromer,* 88 F.3d at 1332, with the information required to fully evaluate the *Ram Ditta* factors relevant to the Eleventh Amendment analysis. *See* ECF No. 52; *Ram Ditta,* 822 F.2d at 457–58. Whether that proves true remains to be seen.

IV. CONCLUSION

For the reasons set forth above, the court GRANTS the motion for entry of judgment pursuant to Fed. R. Civ. P. 54(b) and STAYS further proceedings pending resolution of the appeal.

AND IT IS SO ORDERED.

/s/ David C. Norton
DAVID C. NORTON
UNITED STATES DISTRICT JUDGE

March 12, 2024
Charleston, South Carolina

APPENDIX G

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

No. 2:23-cv-02149-DCN

RANDALL WILLIAMS, Personal Representative of the Estates of Shanice R. Dantzler-Williams and Miranda R. Dantzler-Williams; and BETTY SIMMONS, Personal Representative of the Estate of Stephanie Dantzler;

Plaintiffs,

vs.

EMILY PELLETIER; CLINTON SACKS; CHARLESTON COUNTY SHERIFF'S OFFICE; and CHARLESTON COUNTY,

Defendants.

ORDER

The following matter is before the court on defendant Charleston County Sheriff's Office's ("CCSO") motion to dismiss. ECF No. 24. For the reasons set forth below, the court grants the motion.

I. BACKGROUND

This case arises from a car accident which resulted in the deaths of Shanice R. Dantzler-Williams ("Shanice"), Miranda R. Dantzler-Williams ("Miranda"), and Stephanie Dantzler ("Stephanie") (together, the "decedents"). ECF No. 129, Amend. Compl. ¶¶ 79–86. Deputy Emily Pelletier ("Deputy

Pelletier") and Deputy Clinton Sacks ("Deputy Sacks") were responding to a non-emergency stalled vehicle and, in so doing, greatly exceeded the speed limits, failed to abide by traffic laws, and failed to engage their respective emergency lights or audible sirens in violation of CCSO policy. *Id*. ¶¶ 38–86. Deputy Pelletier sped past a stop sign and crossed multiple lanes of traffic on Highway 17, ultimately striking, at a speed of seventy-three miles-per-hour, the vehicle Shanice drove southbound. *Id.* ¶ 79. Shanice and Miranda were celebrating Mother's Day with their mother Stephanie. *Id.* ¶ 80. All three of them sustained catastrophic injuries because of the crash and died shortly thereafter. *Id.* ¶¶ 80–86. This incident is purportedly not a one-off but is rather part of a history of dangerous driving and misuse of county vehicles by CCSO deputies, which neither CCSO nor Charleston County (the "County") have adequately addressed. *Id*. ¶¶ 93–98.

Plaintiffs Randall Williams ("Williams") and Betty Simmons ("Simmons") (together, "plaintiffs") filed this action in the Charleston County Court of Common Pleas on May 15, 2023. ECF No. 1-1, Compl. On May 19, 2023, defendant Deputy Pelletier removed the action to federal court pursuant to 28 U.S.C. §§ 1441 and 1446.[1] ECF No. 1. On October 4, 2023,

[1] It is unclear whether all the defendants consented to Deputy Pelletier's removal of the action from state court. ECF No. 1. Deputy Pelletier merely indicated that "[n]o other Defendants have appeared or answered," which is unsurprising because she removed the action only four days after it was initially filed. *Id.* at 2. "The Supreme Court has construed [§ 1446(b)] to include a 'unanimity requirement,' such that all defendants must consent to removal." *Mayo v. Bd. of Educ. of Prince George's Cnty.,* 713 F.3d 735, 741 (4th Cir. 2013) (citing *Lapides v. Bd. of Regents,* 535 U.S. 613, 620 (2002)). Under the requirement of unanimous

plaintiffs filed an amended complaint, now the operative complaint. ECF No. 29, Amend. Compl. Plaintiffs filed on behalf of the estates of the decedents with Williams representing his daughters Shanice and Miranda and with Simmons representing her daughter Stephanie. *Id.* They bring ten causes of action.[2] *Id.* ¶¶ 126–247. On September 15, 2023, CCSO

---

consent for removal, if any defendant properly joined and served in a state-court action does not consent to removal, the action cannot be removed, and remand is required. *See* 28 U.S.C. § 1446(b). The Fourth Circuit has specified that in a multiple-defendant case, removal can "be accomplished by the filling of one paper signed by at least one attorney, representing that all defendants have consented to the removal." *Mayo,* 713 F.3d at 742. As such, removal was defective because the notice of removal did not indicate the unanimous consent of Deputy Sacks, CCSO, and the County, and because they did not later file consents to the docket. Noncompliance with the rule of unanimity is a waivable "error in the removal process," rather than a defect in subject matter jurisdiction. *Payne ex rel. Est. of Calzada v. Brake,* 439 F.3d 198, 203 (4th Cir. 2006). As a result, a plaintiff who fails to make a timely objection waives the objection. *See* 28 U.S.C. § 1447(c) (explaining that, after removal, any "motion to remand the case on the basis of any defect other than lack of subject matter jurisdiction must be made within 30 days."). Plaintiffs did not move to remand and therefore waived their right to raise defective removal for failure to obtain unanimous consent as a basis for remand.

[2] Plaintiffs allege: (1) negligence / negligence per se by all defendants, Amend. Compl. ¶¶ 126–31; (2) negligent training by CCSO of Deputies Pelletier and Sacks, *id.* ¶¶ 132–35; (3) negligent supervision by CCSO and the County of Deputies Pelletier and Sacks, *id.* ¶¶ 136–44; (4) violation of the decedents' civil rights pursuant to 42 U.S.C. § 1983 by Deputies Pelletier and Sacks, *id.* ¶¶ 145–49; (5) municipal liability for an unconstitutional official policy pursuant to 42 U.S.C. § 1983 by CCSO and the County, *id.* ¶¶ 227–30; (6) municipal liability for an unconstitutional unofficial policy or custom pursuant to 42 U.S.C. § 1983 by CCSO and the County; *id.* ¶¶ 231–34; (7) municipal liability for inadequate training and supervision

filed a motion to dismiss plaintiffs' 42 U.S.C. § 1983 claims as asserted against CCSO for failure to state a claim pursuant to Fed. R. Civ. P. 12(b)(6).[3] ECF No. 24. On October 20, 2023, plaintiffs responded in opposition to the motion, ECF No. 34, to which CCSO replied on November 10, 2023, ECF No. 43. As such, the motion has been fully briefed and is now ripe for review.

---

pursuant to 42 U.S.C. § 1983 by CCSO and the County, *id.* ¶¶ 235–40; (8) survival action and damages pursuant to S.C. Code Ann. § 15-5-90, *id.* ¶¶ 241–42; (9) wrongful death action and damages pursuant to S.C. Code Ann. § 15-51-10, *id.* ¶¶ 243–45; and (10) entitlement to reasonable costs and attorney's fees pursuant to 42 U.S.C. § 1988, *id.* ¶¶ 246–47.

[3] The Fourth Circuit has been "unclear on whether a dismissal on Eleventh Amendment immunity grounds is a dismisssal for failure to state a claim under Rule 12(b)(6) or a dismissal for lack of subject matter jurisdiction under Rule 12(b)(1)." *Andrews v. Daw,* 201 F.3d 521, 524 n.2 (4th Cir. 2000) (comparing *Biggs v. Meadows,* 66 F.3d 56, 58–59 (4th Cir. 1995), with *Abril v. Virginia,* 145 F.3d 182, 184 (4th Cir. 1998), and *Republic of Paraguay v. Allen,* 134 F.3d 622, 626 (4th Cir. 1998)). The recent trend, however, appears to treat Eleventh Amendment Immunity motions under Rule 12(b)(1). *See, e.g., Beckham v. Nat'l R.R. Passenger Corp.,* 569 F. Supp. 2d 542, 547 (D. Md. 2008) ("[A]lthough the Eleventh Amendment immunity is not a 'true limit' on this Court's subject matter jurisdiction, the Court concludes that it is more appropriate to consider their argument under Fed. R. Civ. P. 12(b)(1) because it ultimately challenges this Court's ability to exercise its Article III power." (internal citations omitted)). This distinction, however, "makes little practical difference" as in either case the court must assume the truth of the facts alleged in the complaint and view them in the light most favorable to the plaintiff. *Zemedagegehu v. Arthur,* 2015 WL 1930539, at *3 (E.D. Va. Apr. 28, 2015); *accord Fleming v. Va. State Univ.,* 2016 WL 927186, at *1 n.4 (E.D. Va. Mar. 4, 2016), *aff'd as modified,* 671 F. App'x 117 (4th Cir 2016).

II. STANDARD

A. Motion to Dismiss

A Rule 12(b)(6) motion for failure to state a claim upon which relief can be granted "challenges the legal sufficiency of a complaint." *Francis v. Giacomelli,* 588 F.3d 186, 192 (4th Cir. 2009) (citations omitted); *see also Republican Party of N.C. v. Martin,* 980 F.2d 943, 952 (4th Cir. 1992) ("A motion to dismiss under Rule 12(b)(6) . . . does not resolve contests surrounding the facts, the merits of a claim, or the applicability of defenses."). To be legally sufficient, a pleading must contain a "short and plain statement of the claim showing that the pleader is entitled to relief." Fed. R. Civ. P. 8(a)(2). A Rule 12(b)(6) motion should not be granted unless it appears certain that the plaintiff can prove no set of facts that would support his claim and would entitle him to relief. *Mylan Lab'ys, Inc. v. Matkari,* 7 F.3d 1130, 1134 (4th Cir. 1993). When considering a Rule 12(b)(6) motion, the court should accept all well-pleaded allegations as true and should view the complaint in a light most favorable to the plaintiff. *Ostrzenski v. Seigel,* 177 F.3d 245, 251 (4th Cir. 1999); *Mylan Lab'ys,* 7 F.3d at 1134. "To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" *Ashcroft v. Iqbal,* 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly,* 550 U.S. 544, 570 (2007)). "A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Id.*

III. DISCUSSION

CCSO seeks to have the court dismiss plaintiffs' 42 U.S.C. § 1983 *Monell*[4] liability causes of action as asserted against CCSO for unconstitutional official policies, customs, and inadequate training and supervision for failure to state a claim. ECF No. 24 at 1 (referencing Compl. ¶¶ 155–64).[5] CCSO argues that "[i]t is well settled that the [CCSO] is immune from these claims as a § 1983 claim for municipal liability under the *Monell* Doctrine cannot be brought against a Sheriff's Office because it is a state agency and not a person as defined by § 1983." *Id.* at 2. In South Carolina, a Sheriff's office is an agency of the State. *Id.* at 4 (citing *Stewart v. Beaufort Cnty.,* 481 F. Supp. 2d 483, 492 (D.S.C. 2007)). Thus, CCSO, as a state agency, is entitled to immunity under the Eleventh Amendment. *Id.* (citations omitted). As such, CCSO argues that plaintiffs fail to state a claim upon which relief may be granted as to the municipal liability claims asserted against CCSO. *Id.* at 5.

In response, plaintiffs first contend that the court must decide whether CCSO is a policymaker for the County. ECF No. 34 at 2. Second, plaintiffs argue that the precedent establishing that a sheriff's office is an agent of the state does not govern the instant facts. *See id.* at 2–4 (first citing *Gulledge v. Smart,* 691 F. Supp. 947 (D.S.C. 1988), *aff'd,* 878 F.2d 379 (4th Cir. 1989); and then citing *Cromer v. Brown,* 88 F.3d 1315 (4th Cir. 1996)). Third, plaintiffs claim that the critical

---

[4] *Monell v. N.Y. Dep't of Soc. Servs.,* 436 U.S. 658, 701 (1978).

[5] The motion to dismiss, ECF No. 24, was filed prior to the amended complaint, ECF No. 29. As such, the motion's references to the three *Monell* liability causes of action in the complaint likely remain in force with regards to those same claims in the amended complaint. Amend. Compl. ¶¶ 227–40.

question deciding whether CCSO is entitled to Eleventh Amendment immunity is whether the state of South Carolina is liable for any judgment on plaintiffs' *Monell* claims. *Id.* at 2 (citing *Ram Ditta ex rel. Ram Ditta v. Md. Nat'l Cap. Park & Planning Comm'n,* 822 F.2d 456, 457 (4th Cir. 1987)). Plaintiffs thereafter perform the analysis described in *Ram Ditta,* 822 F.2d at 457–58,[6] and conclude that the

---

[6] The Fourth Circuit enumerated a four-factor test to determine whether an entity, other than the state itself, is eligible for Eleventh Amendment immunity:

> While many factors must be considered in determining whether an entity is the *alter ego* of the state, it is generally held that the most important consideration is [1] whether the state treasury will be responsible for paying any judgment that might be awarded. . . . Other important inquiries underlying our consideration of eleventh amendment immunity include, but are not necessarily limited to, [2] whether the entity exercises a significant degree of autonomy from the state, [3] whether it is involved with local versus statewide concerns, and [4] how it is treated as a matter of state law.

Ram Ditta, 822 F.2d at 457–58; *see also S.C. Dep't of Disabilities & Special Needs v. Hoover Universal, Inc.,* 535 F.3d 300, 303 (4th Cir. 2008). The original *Ram Ditta* analysis has been adapted consistent with the Supreme Court's decision in *Hess v. Port Auth. Trans-Hudson Corp.,* 513 U.S. 30 (1994). The Court considered how to resolve the primary question where the four factors do not lead to a single conclusion and declared that two considerations remain paramount: (1) to prevent federal court judgments from depleting a state's treasury and (2) to preserve the dignity of the states. *Id.* at 39, 47. "Under this sovereign dignity inquiry, a court must, in the end, determine whether the governmental entity is so connected to the State that the legal action against the entity would, despite the fact that the judgment will not be paid from the State treasury, amount to the indignity of subjecting a State to the coercive process of judicial tribunals at the instance of private parties." *Cash v. Granville*

entity that would pay the judgment is Charleston County, not the state of South Carolina, and, thus, CCSO should be treated as a municipal entity rather than as a state agent.[7] *Id.* at 2–5, 10–33. Consequently, plaintiffs request that the court deny CCSO's claim of Eleventh Amendment immunity. *Id.* at 33–34.

In reply, CCSO contends that precedent from the federal appellate courts and the district courts in South Carolina have repeatedly answered this question and found that sheriffs' offices are state agents and thereby are entitled to Eleventh Amendment immunity. ECF No. 43 at 1. CCSO cites to ten cases in which courts have found that CCSO was entitled to Eleventh Amendment immunity, *id.* at 4–5, and attaches an appendix listing cases which concluded that sheriffs' offices across South Carolina were entitled to Eleventh Amendment immunity, *id.* at 4 n.2, 14–15. Moreover, CCSO cites to several Fourth Circuit opinions which have confirmed that understanding and performed the *Ram Ditta* analysis—even finding the sheriff's office to be an arm of the state

---

Cnty. Bd. of Educ., 242 F.3d 219, 224 (4th Cir. 2001) (quoting *Seminole Tribe of Fla. v. Florida,* 517 U.S. 44, 58 (1996)).

[7] Plaintiffs argue that three of the four *Ram Ditta* factors support finding CCSO to be a municipal agent, with the fourth factor unclear as to whether CCSO is an agent of the municipality or the state. ECF No. 34 at 7–11. Plaintiffs first contend that only the Charleston County Treasury is at risk for any *Monell* claim brought against CCSO, not the state treasury. *Id.* at 2, 7–8. Second, plaintiffs emphasize that the CCSO "operates with autonomy from the State of South Carolina as to virtually every aspect of its operations, funding, supervision, and employees." *Id.* at 8–9. Third, the CCSO and plaintiffs' claims are primarily involved in county, not state, concerns. *Id.* at 9–10. Fourth, plaintiffs emphasize that "[t]his Court is not bound by deficient State law determinations." *Id.* at 11.

where it was unclear whether the state would pay out should the defendant be held liable. *Id.* at 5–7. Thus, CCSO emphasizes that Fourth Circuit precedent forecloses the court from adopting plaintiffs' interpretation and the plaintiffs' allegations and arguments cannot avoid the controlling precedent in the Fourth Circuit. *Id.* at 7–12. Furthermore, CCSO highlights that federal district courts have repeatedly ruled that a sheriff's office is a state office entitled to Eleventh Amendment immunity in South Carolina. *Id.* at 12. Those courts concluded as much separate and apart from whether any individual officer or sheriff when sued in his or her official capacity was entitled to immunity. *Id.* Consequently, CCSO requests the court grant its motion to dismiss. *Id.* at 13.

Initially, the court emphasizes the importance of precedent and further follows the Fourth Circuit's lead in noting that a court should not lightly presume that the law of the Fourth Circuit has been overturned, especially where the newly issued opinion can be read harmoniously with the existing precedent. *See Taylor v. Grubbs,* 930 F.3d 611, 619 (4th Cir. 2019). To be sure, the Fourth Circuit consistently reiterates that unpublished opinions are not binding precedent upon federal district courts. *See, e.g., Turner v. Kight,* 121 F. App'x 9 (4th Cir. 2005). However, federal district courts may not stray from binding precedent and this court will not do so in the instant case.[8] Consequently, the court first determines whether binding precedent clearly establishes that CCSO is not a person nor a

[8] As this court has noted before, "[w]hen presented with binding Fourth Circuit precedent, district courts, like obedient children, should be seen and not heard." *See Sadighi v. Daghighfekr,* 36 F. Supp. 2d 279, 288 n.9 (D.S.C. 1999).

municipality, but an agent of South Carolina entitled to Eleventh Amendment immunity.

A cause of action under Section 1983 requires the deprivation of a civil right by a "person" acting under color of state law. 42 U.S.C. § 1983. "Section 1983 provides a federal forum to remedy many deprivations of civil liberties, but it does not provide a federal forum for litigants who seek a remedy against a State for alleged deprivations of civil liberties." *Will v. Mich. Dep't of State Police,* 491 U.S. 58, 66 (1989). "The Eleventh Amendment bars such suits unless the State has waived its immunity, . . . or unless Congress has exercised its undoubted power under § 5 of the Fourteenth Amendment to override that immunity." *Id.* In passing Section 1983, Congress clearly had no intention to disturb the States' Eleventh Amendment immunity or to so alter the federal-state balance. *Id.; see also Quern v. Jordan,* 440 U.S. 332 (1979). Entities which may benefit from Eleventh Amendment immunities are those states or government entities that are considered "arms of the State." *S.C. Troopers Fed'n Loc. 13 v. South Carolina,* 112 F. App'x 883, 885 (4th Cir. 2004) (citing *Will,* 491 U.S. at 70). In contrast, "municipal bodies sued under § 1983 cannot be entitled to absolute immunity," meaning municipalities are not entitled to Eleventh Amendment immunity. *Monell,* 436 U.S. at 701. Rather, municipalities may be held liable for constitutional violations committed by their employees or agents when an official custom, policy, or practice of the municipality, or the decision of a final policymaker for the municipality, is responsible for causing the deprivation. *Id.* at 694. Thus, the court is confronted with the question of whether CCSO is an agent of the state or the municipality.

Courts in this district have consistently held that a county sheriff's office is considered a state agency, not a municipal department, which is an interpretation that the Fourth Circuit has affirmed and has independently determined.[9] *See, e.g., Cromer,* 88 F.3d at 1332; *Gulledge,* 691 F. Supp. at 954–55 (discussing sheriff as agent and alter ego of the state and that deputy sheriffs act as the sheriff's agent); *Patel v. McIntyre,* 667 F. Supp. 1131, 1145 n.26 (D.S.C. 1987) (concluding that the sheriff and county are distinct and separate entities in South Carolina and that the sheriff does not act as a "county" policymaker in law enforcement matters), *aff'd,* 848 F.2d 185 (4th Cir. 1988) (unpublished table decision). South Carolina courts, including the South Carolina Supreme Court, have also consistently held that the sheriff and the sheriff's deputies are state, not county, employees. *See, e.g., Edwards v. Lexington Cnty. Sheriff's Dep't,* 688 S.E.2d 125, 127 n.1 (S.C. 2010); *Lampley v. Hulon,* 854 S.E.2d 489, 491 (S.C. Ct. App. 2021), *reh'g denied* (Feb. 23, 2021), *cert. denied* (Apr. 6, 2022). In sum, "[i]t is well settled, both in South Carolina law and federal law, that a Sheriff in South Carolina is an arm of the State and not a County employee and therefore is entitled to Eleventh Amendment Immunity in his or

[9] In fact, this court has previously found as much on multiple occasions, explicitly stating "the Sheriff's Department, like the sheriff, is an arm of the state and entitled to Eleventh Amendment immunity." *McCall v. Williams,* 52 F. Supp. 2d 611, 623 (D.S.C. 1999); *see also Mozingo v. Strickland,* 2015 WL 5155259, at *2 (D.S.C. Sept. 1, 2015) ("Sheriffs' departments in South Carolina are considered state agencies."); *Magwood v. City of Charleston Police Dep't,* 2013 WL 5332640, at *3 (D.S.C. Sept. 23, 2013) (adopting report and recommendation) ("[A]s asserted against the Charleston County law enforcement division, this cause of action is a suit against the State of South Carolina itself.").

her official capacity from suit in Federal Court." *Cash v. Thomas,* 2013 WL 3804375, at *7 (D.S.C. July 19, 2013). These decisions have not been overturned or expressly abrogated, and therefore remain good law on the question of whether a South Carolina sheriff's office is an agent of the state versus a municipality.[10]

---

[10] The decisions holding that a South Carolina sheriff's office is an arm of the state are unanimous and numerous. *See, e.g., Wall v. Sloan,* 135 F.3d 771 (4th Cir. 1998) (agreeing that a South Carolina county sheriff is a state official and thereby not subject to suit for monetary damages in his official capacity); *Brown v. Middleton,* 362 F. App'x 340, 346 n.8 (4th Cir. 2010) (noting that the district court correctly concluded that the Charleston County Sheriff could not be held liable under § 1983 in his official capacity since he is a state official); *Smith v. Cherokee Cnty. Sheriff's Off.,* 2023 WL 6466468, at *2 (D.S.C. Sept. 11, 2023) ("Cherokee County Sheriff's Office is considered a state agency under South Carolina law and is therefore entitled to sovereign immunity."), *report and recommendation adopted,* 2023 WL 6462871 (D.S.C. Oct. 4, 2023); *Brooks v. Berkeley Cnty. Sheriff's Off.,* 2022 WL 18635126, at *3 (D.S.C. Sept. 1, 2022) ("BCSO and OCSO are considered state agencies, and as such, they are entitled to sovereign immunity."), *report and recommendation adopted,* 2023 WL 142394 (D.S.C. Jan. 10, 2023); *Hoover v. Horry Cnty. Sheriff's Off.,* 2022 WL 17543063, at *2 (D.S.C. Nov. 3, 2022) ("Horry County Sheriff's Office is considered a state agency, as such it is entitled to sovereign immunity."), *report and recommendation adopted,* 2022 WL 17542997 (D.S.C. Dec. 8, 2022); *Murray v. Greenville Cnty. Sheriff's Off.,* 2018 WL 5624162, at *2 (D.S.C. Sept. 19, 2018) ("[County] sheriff's departments in South Carolina are considered alter egos or arms of the state."), *report and recommendation adopted sub nom.,* 2018 WL 5617931 (D.S.C. Oct. 29, 2018); *Wirtz v. Oconee Cnty. Sheriff's Dep't,* 2013 WL 5372795, at *1 (D.S.C. Sept. 24, 2013) ("Under South Carolina law, a sheriff's department is a state agency, not a department under the control of the county."); *Watts v. Lexington Cnty. Police Dep't,* 2012 WL 6025771, at *4 (D.S.C. Nov. 15, 2012) ("[S]uing LCSD is the same as suing the State."), *report and recommendation adopted,* 2012 WL 6024672 (D.S.C. Dec. 4,

Consequently, plaintiffs face a Sisyphean battle to demonstrate that the large body of cases that have found sheriffs and sheriff's offices to be arms of the state of South Carolina do not apply to the instant facts.[11]

Plaintiffs first argue that the CCSO is the sheriff's office, not an individual sheriff, and "no Court has . . . analyzed the South Carolina Sheriff's Office as an entity and has instead looked only at the Sheriff as an individual official." ECF No. 34 at 3. Consequently, plaintiffs conclude that precedent does not foreclose them from suing the sheriff's office as an entity. *Id.* at 11–33. This is a perplexing argument given the clear and ubiquitous precedent holding the opposite. *See, e.g., Millmine v. Cnty. of Lexington,* 2011 WL 182875, at *5 (D.S.C. Jan. 20, 2011) ("In South Carolina, a sheriff's department is an agency of the state, not a department under the control of the county."), *aff'd,* 557 F. App'x 227 (4th Cir. 2014); *Carroll v. Greenville*

2012). Plaintiffs do not identify any court case that holds otherwise—instead choosing to critique the logic of all relevant cases for failing to adequately review the factors in *Ram Ditta,* 822 F.2d at 457–58. *See generally* ECF No. 34.

[11] Despite this precedent, plaintiffs believe they have met their burden to establish *stare decisis* does not apply by showing that:

> All prior court decisions cite to the deeply flawed analyses of *Gulledge* and *Cromer,* and no subsequent case (1) ever fully considered that the State is not liable for the judgment against a Sheriff's Office; (2) conducted a complete analysis of the three (3) *Ram Ditta*[, 822 F.2d at 457–58,] and *Harter*[*v. Vernon, 101 F.3d 334 (4th Cir. 1996)*], factors as to the Sheriff's Office as an entity; or (3) analyzed the Sheriff as policymaker as to the *Monell* claims alleged per *McMillian*[*v. Monroe Cnty.,* 520 U.S. 781, 785 (1997)].

ECF No. 34 at 11.

Cnty. Sheriff's Dep't, 871 F. Supp. 844, 846 (D.S.C. 1994) ("It is well-established in this state that a sheriff's office is an agency of, and a sheriff 'dominated by' the state, such that a suit against the sheriff in his official capacity is a suit against the State."); *Abebe v. Moring,* 2013 WL 12098810, at *1 (D.S.C. Sept. 25, 2013) ("[I]n South Carolina, a sheriff's department is an agency of the state."), *aff'd,* 557 F. App'x 227 (4th Cir. 2014). The argument also falls apart because the rationale behind an individual state official's immunity is that it "is not a suit against the official but rather is a suit against the official's office," which here would be the sheriff's office. *Stewart,* 481 F. Supp. 2d at 489. Consequently, the suit against the sheriff's office "is no different from a suit against the State itself and is therefore barred under the Eleventh Amendment." *Id.*

Presumably considering the foregoing, plaintiffs contend that to the extent other courts have found the sheriff's office to be entitled to immunity, those courts have reached that conclusion by inappropriately extending the immunity established for the individual sheriff to the sheriff's office without engaging in a meaningful analysis of the relevant factors. ECF No. 34 at 11–33. Specifically, plaintiffs contend that none of those courts "had any proof that the State Treasury was at risk for any *Monell* claim brought against any Sheriff's Office" nor did they "conduct[] the complete analysis of the three remaining *Ram Ditta* factors." *Id.* at 4–5. Plaintiffs also draw an analogy to a Fourth Circuit opinion considering whether North Carolina Sheriffs are county actors versus state actors where the court conducted a *Ram Ditta* analysis that emphasized the degree of autonomy of the sheriff and the sheriff's office from the state of North Carolina. ECF No. 34 at 17–18 (citing *Harter v. Vernon,* 101 F.3d

334, 340–41 (4th Cir. 1996)). Plaintiffs argue that the Fourth Circuit's holding in *Harter* should also apply to South Carolina—namely, the relevant South Carolina statutes are analogous to North Carolina statutes that the Fourth Circuit considered and found to establish that sheriffs were under the control of a mixture of both the state and the county. *Id.* at 17–24; *Harter,* 101 F.3d at 340–41.

Such an interpretation misses the mark because there are meaningful differences in the relevant North Carolina and South Carolina statutes, and the Fourth Circuit considered those differences to explain its conclusion in *Harter*. *See* 101 F.3d at 341 n.2 (identifying the meaningful differences in North Carolina and South Carolina to explain the different conclusions in *Harter* versus *Cromer*). Fortunately, this court need not speculate about how the Fourth Circuit would apply the *Ram Ditta* factors to a lawsuit against a South Carolina sheriff or sheriff's office because it considered the *Ram Ditta* factors in reaching its conclusions in factually analogous, if not identical, cases. For example, in *Gulledge,* the District Court determined that county sheriff's offices are "dominated" by the state for the following reasons:

> While the state constitution establishes the elective office of county sheriff and his term of office, it also provides that the General Assembly is to prescribe his duties and compensation. S.C. Const. art. V § 24. Accordingly, the General Assembly through numerous statutes has set forth the sheriff's (and his deputies') duties and compensation. *See* South Carolina Code of Laws, 1976, §§ 23-11-10 et seq.; § 23-13-10; § 4-9-30(5) and (7). The sheriffs' arrest powers relate primarily to

state offenses. *Id.* §§ 17-13-30, 23-15-50. Indeed, even the sheriff's territorial jurisdiction, namely, county-wide, is in effect prescribed by the legislature through the statutory designation of county boundary lines. *Id.* §§ 4-3-10 et seq. Although the sheriff as an elected official is not subject to hiring and firing by the state, the legislature has nevertheless prescribed that the Governor is the public official empowered to remove the sheriff from office for misconduct and to fill a vacancy in that office. *Id.* § 1-3-240; § 23-11–40.[12] As in *McConnell*[*v. Adams,* 829 F.2d

[12] Section 23-11-40 provides that a vacancy in the office of sheriff is filled by gubernatorial appointment until either the next general election for county sheriffs or a special election to elect someone to hold the office until the next general election for county sheriffs depending on when the vacancy occurs. Section 1-3-220(2) provides that the Governor appoints an officer to fill any vacancy in a "county office" until the next general election. The South Carolina Supreme Court has interpreted these two provisions *in pari materia* to mean that the Governor fills a vacancy in the sheriff's office until the next general election for county sheriffs. *Privette v. Grinnell,* 4 S.E.2d 305 (S.C. 1939). Although by this interpretation the State Supreme Court has concluded that the sheriff's office is a county office for the purpose of filling a vacancy, that conclusion d[id] not prevent [the court in *Gulledge,* 691 F. Supp. at 954 n.6,] from determining that the sheriff acts as an agent of the state, not the county, in light of the state's potential power of control over him. *See McConnell,* 829 F.2d at 1326 n.5; see also Patel v. McIntyre, 667 F. Supp. 1131, 1145 n.26 (D.S.C. 1987), aff'd, 848 F.2d 185 (4th Cir. 1988).

Gulledge, 691 F. Supp. at 954 n.6. This court similarly finds that the sheriff acts as an agent of the state, not the county.

> 1319 (4th Cir. 1987)], "the inescapable conclusion is that [a county sheriff] [is] dominated by the state." 829 F.2d at 1328."

691 F. Supp. at 954–55 (footnote number altered). In *Cromer,* the Fourth Circuit stated that it "considered the remaining factors relevant to the immunity analysis and conclude[d] that, in his official capacity, Sheriff Brown [wa]s an arm of the state." *Cromer,* 88 F.3d at 1332. In so doing, the court cited to *Gulledge,* indicating its intention to incorporate *Gulledge's* analysis by reference. *See id.* Since the Fourth Circuit has fully considered the *Ram Ditta* factors in evaluating Section 1983 liability for South Carolina sheriffs, this court is foreclosed by controlling precedent from finding South Carolina county sheriffs or sheriff's offices to be municipal actors.

Plaintiffs have presented no reason that would convince the court to sidestep the controlling precedent establishing that South Carolina sheriff's offices are arms of the state. Plaintiffs' disagreement with the logic underlying those decisions and statutes does not fundamentally change that this court must follow binding precedent. *See* ECF No. 34 at 28–31. Thus, the court finds CCSO is entitled to Eleventh Amendment immunity and grants CCSO's motion to dismiss plaintiffs' 42 U.S.C. § 1983 claims as asserted against CCSO.

IV. CONCLUSION

For the reasons set forth above, the court GRANTS the motion to dismiss.

AND IT IS SO ORDERED.

/s/ David C. Norton
DAVID C. NORTON
UNITED STATES DISTRICT JUDGE

December 13, 2023
Charleston, South Carolina

APPENDIX H

U.S. Const. Amend. XI

The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.

42 U.S.C. § 1983

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable.

S.C. Const. Art. X - Finance, Taxation, And Bonded Debt

SECTION 7. Limitation on annual expenditures of state government and number of state employees; annual budgets and expenses of political subdivisions and school districts.

(a) The General Assembly shall provide by law for a budget process to insure that annual expenditures of state government may not exceed annual state revenue.

(b) Each political subdivision of the State as defined in Section 14 of this article and each school district of

this State shall prepare and maintain annual budgets which provide for sufficient income to meet its estimated expenses for each year. Whenever it shall happen that the ordinary expenses of a political subdivision for any year shall exceed the income of such political subdivision, the governing body of such political subdivision shall provide for levying a tax in the ensuing year sufficient, with other sources of income, to pay the deficiency of the preceding year together with the estimated expenses for such ensuing year. The General Assembly shall establish procedures to insure that the provisions of this section are enforced.

. . .

SECTION 8. Payments from treasuries.

Money shall be drawn from the treasury of the State or the treasury of any of its political subdivisions only in pursuance of appropriations made by law.

S.C. Code Ann. § 1-11-140. Authorization of Fiscal Accountability Authority, through the Office of Insurance Reserve Fund, to provide insurance.

(A) The State Fiscal Accountability Authority, through the Insurance Reserve Fund, is authorized to provide insurance for the State, its departments, agencies, institutions, commissions, boards, and the personnel employed by the State in its departments, agencies, institutions, commissions, and boards so as to protect the State against tort liability and to protect these personnel against tort liability arising in the course of their employment. The insurance also may be provided for physicians or dentists employed by the State, its departments, agencies, institutions, commissions, or boards against any tort liability arising out of the rendering of any professional services as a physician

or dentist for which no fee is charged or professional services rendered of any type whatsoever so long as any fees received are directly payable to the employer of a covered physician or dentist, or to any practice plan authorized by the employer whether or not the practice plan is incorporated and registered with the Secretary of State; provided, any insurance coverage provided by the authority may be on the basis of claims made or upon occurrences. The insurance also may be provided for students of high schools, South Carolina Technical Schools, or state-supported colleges and universities while these students are engaged in work study, distributive education, or apprentice programs on the premises of private companies. **Premiums for the insurance must be paid from appropriations to or funds collected by the various entities**, except that in the case of the above-referenced students in which case the premiums must be paid from fees paid by students participating in these training programs. The authority has the exclusive control over the investigation, settlement, and defense of claims against the various entities and personnel for whom it provided insurance coverage and may promulgate regulations in connection therewith. (emphasis added).

(B) Any political subdivision of the State including, without limitations, municipalities, counties, and school districts, may procure the insurance for itself and for its employees in the same manner provided for the procurement of this insurance for the State, its entities, and its employees, or in a manner provided by Section 15-78-140.

. . .

SECTION 1-11-445. Defense and indemnification of state agencies.

(A) The State of South Carolina, by and through its agencies, departments, and instrumentalities, must defend the state agency, department, or instrumentality, and the members of a governing board of the state agency, department, or instrumentality, as applicable, against an uninsured claim or suit that arises out of or by virtue of the performance of official duties on behalf of the state agency, department, or instrumentality, and must indemnify them for an uninsured loss or judgment incurred by them as a result of the claim or suit, without regard to whether the claim or suit is brought against them in their individual or official capacities, or both. The State also must defend directors, officers, and employees of the entity, and legislative employees performing duties for the entity, against an uninsured claim or suit that arises out of or by virtue of the performance of official duties unless the director, officer, employee, or legislative employee was acting in bad faith including, but not limited to, acting outside the scope of his official duties, or that the actions constituted actual fraud, actual malice, intent to harm, or a crime involving moral turpitude. The State shall indemnify these directors, officers, employees, and legislative employees for a loss or judgment incurred by them as a result of such uninsured claim or suit, without regard to whether the claim or suit is brought against them in their individual or official capacities, or both. This commitment to defend and indemnify extends to members of the entity, the entity's officers, the entity's director, the entity's employees, and legislative employees after they have left their employment with the entity or the General Assembly, as applicable, if the uninsured claim or

suit arises out of or by virtue of their performance of official duties on behalf of their employer.

(B) The term "instrumentality" as used in this section includes an entity where a specific duty or function is imposed on the entity by law and includes any function where the entity must exercise a portion of the state's sovereignty. Entities to which this provision applies include, but are not limited to, the State Fiscal Accountability Authority, the Judicial Merit Selection Commission, the Public Utilities Review Committee, the Retirement Systems Investment Panel, and all joint special legislative committees.

. . .

SECTION 4-1-10. Division of State into counties; each county is a body politic and corporate.

The State of South Carolina is divided into forty-six counties. Each county is a body politic and corporate for the following purposes:

(1) To sue and be sued;

(2) To purchase and hold, for the use of the county, lands and personalty within the limits thereof;

(3) To make all contracts; and

(4) To do all acts in relation to the property and concerns of the county necessary thereto.

SECTION 4-1-80. County officers shall be furnished office space, furniture and equipment by county.

The governing body of each county shall furnish the probate judge, auditor, superintendent of education, clerk of court, sheriff, treasurer and master in equity of their respective counties office room, together with necessary furniture and stationery for the same, which shall be kept at the courthouse of their respective

counties, and it shall supply the offices of such officials with fuel, lights, postage and other incidentals necessary to the proper transaction of the legitimate business of such offices.

. . .

SECTION 4-9-25. Powers of counties.

All counties of the State, in addition to the powers conferred to their specific form of government, have authority to enact regulations, resolutions, and ordinances, not inconsistent with the Constitution and general law of this State, including the exercise of these powers in relation to health and order in counties or respecting any subject as appears to them necessary and proper for the security, general welfare, and convenience of counties or for preserving health, peace, order, and good government in them. The powers of a county must be liberally construed in favor of the county and the specific mention of particular powers may not be construed as limiting in any manner the general powers of counties.

SECTION 4-9-30. Designation of powers under each alternative form of government except board of commissioners form.

. . .

(6) to establish such agencies, departments, boards, commissions and positions in the county as may be necessary and proper to provide services of local concern for public purposes, to prescribe the functions thereof and to regulate, modify, merge or abolish any such agencies, departments, boards, commissions and positions, except as otherwise provided for in this title. Any county governing body may by ordinance abolish a rural or other county police system established pursuant to Chapter 6 of Title 53 [of the Code of Laws,

1962] and devolve the powers and duties of the system upon the county sheriff; provided, however, that such an ordinance shall not become effective until the registered electors of the county shall first approve the ordinance by referendum called by the governing body;

. . .

SECTION 4-9-33. Referendum required to approve creation of county police department.

A referendum must be held to approve the creation of a county police department prior to the implementation of an ordinance adopted by a county council which would duplicate or replace the law enforcement functions of a sheriff. As used in this section, the term law enforcement means those activities and duties which require the exercise of custodial arrest authority by a sheriff or his duly appointed and sworn deputy or the performance of duties conferred by state law upon a sheriff and those activities incidental to the performance of law enforcement duties.

. . .

SECTION 4-9-140. Designation of fiscal and budget years; annual reports; adoption of budgets; levying and collection of taxes; supplemental appropriations; obtaining reports, estimates, and statistics.

The fiscal year of the county government shall begin on the first day of July of each year and shall end on the thirtieth day of June next following, and the fiscal year shall constitute the budget year of the county government. All county offices, departments, boards, commissions or institutions receiving county funds shall make a full, detailed annual fiscal report to the county council at the end of the fiscal year.

County council shall adopt annually and prior to the beginning of the fiscal year operating and capital budgets for the operation of county government and shall in such budgets identify the sources of anticipated revenue including taxes necessary to meet the financial requirements of the budgets adopted. Council shall further provide for the levy and collection of taxes necessary to meet all budget requirements except as provided for by other revenue sources.

Council may make supplemental appropriations which shall specify the source of funds for such appropriations. The procedure for approval of supplemental appropriations shall be the same as that prescribed for enactment of ordinances.

For the purposes of this section a supplemental appropriation shall be defined as an appropriation of additional funds which have come available during the fiscal year and which have not been previously obligated by the current operating or capital budget. The provisions of this section shall not be construed to prohibit the transfer of funds appropriated in the annual budget for purposes other than as specified in such annual budget when such transfers are approved by the council.

In the preparation of annual budgets or supplemental appropriations, council may require such reports, estimates and statistics from any county agency or department as may be necessary to perform its duties as the responsible fiscal body of the county.

. . .

SECTION 15-78-30. Definitions. (South Carolina Tort Claims Act)

. . .

(e) "State" means the State of South Carolina and any of its offices, agencies, authorities, departments, commissions, boards, divisions, instrumentalities, including the South Carolina Protection and Advocacy System for the Handicapped, Inc., and institutions, including state-supported governmental health care facilities, schools, colleges, universities, and technical colleges.

. . .

(h) "Political subdivision" means the counties, municipalities, school districts…

. . .

SECTION 15-78-140. Procurement of insurance by political subdivisions; exclusivity of remedies provided in this chapter.

(A) The political subdivisions of this State, in regard to tort and automobile liability, property, and casualty insurance shall procure insurance to cover these risks for which immunity has been waived by: (1) the purchase of liability insurance pursuant to Section 1-11-140; or (2) the purchase of liability insurance from a private carrier; or (3) self-insurance; or (4) establishing pooled self-insurance liability funds, by intergovernmental agreement, which may not be construed as transacting the business of insurance or otherwise subject to state laws regulating insurance.

. . .

SECTION 17-13-40. Law enforcement officer jurisdiction when in pursuit of offender; authority, rights, privileges and immunities extended.

. . .

(B) When the police authorities of a county are in pursuit of an offender for a violation of a county ordinance or statute of this State committed within the county, the authorities may arrest the offender, with or without a warrant, at a place within the county, or at a place within an adjacent county.

SECTION 23-13-60. Power of arrest.

The deputy sheriffs may for any suspected freshly committed crime, whether upon view or upon prompt information or complaint, arrest without warrant and, in pursuit of the criminal or suspected criminal, enter houses or break and enter them, whether in their own county or in an adjoining county.

SECTION 23-13-70. Duty to patrol county.

The deputy sheriffs shall patrol the entire county at least twice a week by sections assigned to each by the sheriff, remaining on duty at night when occasion or circumstances suggest the propriety thereof to prevent or detect crime or to make an arrest.