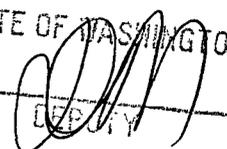


FILED
COURT OF APPEALS
DIVISION II

2016 JUL 25 PM 4:02

STATE OF WASHINGTON

BY 
DEPUTY

No. 48919-8-II

COURT OF APPEALS, DIVISION II
OF THE STATE OF WASHINGTON

SARA MONTE and CAMERON MONTE, husband and wife and the
marital community comprised thereof, C.M., a minor child, and G.M., a
minor child through their guardians ad litem, Sara Monte and Cameron
Monte,

Appellant,

vs.

CLARK COUNTY, WASHINGTON, a political subdivision of the
STATE of WASHINGTON and ANTHONY GOLIK, elected Prosecuting
Attorney for Clark County,

Respondents.

APPEAL FROM THE SUPERIOR COURT
FOR CLARK COUNTY
THE HONORABLE DAVID E. GREGERSON

BRIEF OF RESPONDENTS

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I. INTRODUCTION

Appellants Sara Monte, Cameron Monte, and their two minor children C.M. and G.M., appeal the trial court's dismissal on summary judgment of their tort claims for false arrest, false imprisonment, and outrage against Clark County and Clark County Prosecuting Attorney Anthony Golik (collectively, "Respondents"). Appellants' claims arise from the alleged actions of Clark County Deputy Prosecuting Attorney Scott Jackson in the criminal prosecution of Sara Monte for Attempted Murder in the First Degree. Monte admittedly tried to suffocate/choke her six-year-old daughter to death.

The trial court correctly granted summary judgment because all of the Respondents' actions were undertaken within the scope of their prosecutorial functions; Respondents are therefore shielded by absolute immunity.¹

Appellants have presented no evidence that the Respondents acted outside the scope of traditional prosecutorial functions. Therefore, pursuant to well-established federal and state law on absolute immunity, this Court should affirm the trial court's award of summary judgment in favor of Respondents.

¹ Notably, the Montes did not name any of the law enforcement officers who actually arrested Sara Monte, or their departments; their claim of false arrest is directed at DPA Jackson.

II. COUNTER-STATEMENT OF THE CASE

The Respondents' counter-statement of the case is based on the factual record before this Court, which clearly demonstrates that: (1) at all times relevant to this matter, the Respondents acted entirely within the scope of recognized prosecutorial functions; (2) the arrest of Sara Monte was carried out by the Vancouver Police Department officers, not the Respondents; (3) Monte's arrest was lawful and supported by probable cause; and (4) the trial court was correct in finding as a matter of law that absolute immunity is a complete bar to the Montes' claims.

1. The Appellants Raise Only One Assignment of Error.

In their opening briefing – which is virtually identical to the briefing they submitted to the trial court on summary judgment – the Appellants submit only one Assignment of Error and raise only one issue relating to the alleged error. Brief of Appellants at pp. 1-2. The Appellants contend, in conclusory fashion and without any factual foundation, that the trial court erred in granting summary judgment because an allegedly “unlawful, warrantless arrest occurred.” The Montes argue that the arrest was unlawful because law enforcement officers were acting under the purported “direction” of the Respondents, specifically deputy prosecutor Scott Jackson and his staff (who also were never named as individual defendants in this lawsuit). According to the Appellants, the alleged “direction” falls outside the scope of prosecutorial functions, and the doctrine of absolute prosecutorial immunity therefore does not apply.

Appellants' argument was unsuccessful before the trial court. Indeed, the trial court correctly found that ". . . at best, the plaintiffs' record establishes that the prosecutor's office was involved in [a] team approach . . . But ultimately, the decision and the execution of the decision to arrest was one made by law enforcement." Verbatim Report of Proceedings (VRP) at 40:2-3.

On summary judgment and in their appeal, the Appellants continue to pursue baseless claims against the Respondents by mischaracterizing the actions taken by the Clark County Prosecutor's office. More importantly, Appellants entirely ignore controlling law regarding the applicability of absolute prosecutorial immunity. In fact, Appellants' counsel specifically represented at the summary judgment hearing that the issue of unlawful arrest *was not before* the trial court. VRP at 33:10-11. Appellants' counsel further stated that the "real issue" before the court relates to "warrantless arrest." VRP at 23:1-6. Appellants now attempt to improperly resurrect their arguments by raising unlawful arrest as a component of their single assignment of error on appeal. Br. of Appellants, pp. 1-2. There is simply no evidence that the arrest was unlawful. On the contrary, the record reflects that the arrest was made pursuant to probable cause, as confirmed by the reviewing judge during a probable cause hearing. Clerk's Papers (CP) at 250-251. Hence, Appellants' attempt to characterize the arrest as unlawful should be rejected by this Court.

The Appellants' appeal must be denied; it is well-established that the courts do not consider arguments that are unsupported by pertinent authority or meaningful analysis. *Cowiche Canyon Conservancy v. Bosley*, 118 Wn.2d 801, 809, 828 P.2d 549 (1992) (arguments not supported by authority); *Saunders v. Lloyd's of London*, 113 Wn.2d 330, 345, 779 P.2d 249 (1989) (issues unsupported by adequate argument and authority); RAP 10.3(a).

2. Scope of Appeal.

The Appellants have limited their appeal to a single issue regarding whether the Respondents engaged in a police function by allegedly "directing" the arresting officers to make the arrest. Any argument outside the scope of the Appellants' single assignment of error, and single issue relating to the alleged error, should not be considered. *See, Cowiche*, 118 Wn.2d at 809 (holding that an appellant waives an issue when he fails to argue it in his opening brief).

For example, even though the Appellants reference RCW 9A.04.080 regarding limitation of actions in their Statement of the Case Br. of Appellants, p.7, they presented no legal argument on this issue on summary judgment and the trial court made no findings or conclusions regarding limitations of actions. Furthermore, the Appellants did not assign error based on a statute of limitations, nor did they identify statutory limitation of actions as an issue on this appeal. Except for the lone reference to the statute, Appellants offer no legal analysis to support a claim regarding statute of limitations.

Therefore, this Court should also not consider any argument that relies on, or points to, statutes of limitations as a basis for the Appellants' appeal.

3. The Court Found That There Was Probable Cause To Support Sara Monte's Arrest For Attempted Murder.

The complete factual background of Sara Monte's arrest for attempting to suffocate/choke her six-year-old daughter to death is set out in the Arresting Officer's Declaration of Probable Cause. CP at 250-251. Contrary to the Appellants' numerous unsupported representations that the arrest was unlawful and that the Respondents sought to "circumnavigate" and "eschew the judicial process," Br. of Appellants, p.25, the Declaration of Probable Cause was, in fact, reviewed, approved, and signed by a superior court judge at a probable cause hearing subsequent to the arrest. CP at 250-251.

In fact, the Declaration of Probable Cause included the following material information: (a) on November 23, 2010, the Clark County Sheriff's Office responded to a call regarding an unknown problem; (b) Sara Monte was taken into custody on an involuntary mental hold and the case was referred to Child Protective Services ("CPS"); (c) CPS conducted an extensive investigation and interviewed the alleged victim, daughter C.M., husband (and witness) Cameron Monte, and Sara Monte; (d) the victim reported to CPS that her mother plugged her nose and covered her mouth and she was unable to breathe; (e) Cameron Monte reported observing very odd behavior from his wife in the four or five days leading

up to the incident; (f) on the date of the incident, Mr. Monte reported hearing his daughter screaming, observed his wife standing in the doorway with a blank, scary look on her face, and observed his wife leave the home; (g) CPS reports that *Sara Monte stated* that she had a “psychotic episode” and *she admitted that she tried to kill her daughter* by suffocation; and (h) CPS quotes Monte as specifically stating, “I felt that in order to let her live, I needed to kill her. She kept fighting and fighting. ... I plugged her nose and put my hand over her mouth.” CP at 250-251.

Based on the Declaration of Probable Cause, dated April 8, 2014, and the court’s finding on April 25, 2014, that probable cause was established, Sara Monte was charged with Attempted Murder in the First Degree on April 28, 2014. CP at 250-251; CP at 238.

4. Dismissal of Criminal Charge.

Sara Monte subsequently filed a Motion to Dismiss the criminal charges, arguing that the statute of limitations had expired. Upon further investigation into Monte’s argument, Respondents’ analyzed the statute of limitations issue as it pertained to attempted murder. Finding that the law was unclear, Respondents agreed to the dismissal shortly thereafter. The criminal charge was subsequently dismissed with prejudice by order of the Clark County Superior Court on June 19, 2014. CP at 240.

5. Procedural History of Tort Claims Against Clark County and Dismissal on Summary Judgment.

On September 23, 2015, the Appellants filed this civil lawsuit in Clark County Superior Court against Respondents, alleging tort claims for

false arrest, unlawful imprisonment, and outrage. CP at 1-8. On April 15, 2016, the trial court granted Clark County's Motion for Summary Judgment, dismissing Plaintiffs' Complaint in its entirety. CP at 218-219.

6. There Is No Evidence That The Respondents "Directed" An Arrest.

Contrary to the Appellants' numerous factual assertions regarding the actions of deputy prosecutor Scott Jackson, his participation in the CJC multidisciplinary team, and the specific reference to a single email exchange where Vancouver Police Department Sgt. Barbara Kipp communicated with DPA Jackson's office regarding whether Sara Monte should be "summonsed" or arrested,² there is no evidence that the deputy prosecutor directed, ordered, or took part in, the arrest.

The email exchange relied upon by Appellants was a short communication between Sergeant Barbara Kipp and DPA Jackson's legal assistant, Nicole Davis. CP at 94. The email consisted of a single request for information by Sgt. Kipp regarding whether DPA Jackson "wanted [Monte] summonsed or arrested." *Id.* In response, Ms. Drews wrote:

² In Clark County, a summons for arrest directing the defendant to appear for a hearing at a specified time and place may be issued under certain circumstances. However, where, as in this case, there are concerns such as flight risk and/or risk of danger to family members in the home (including the victim), the DPA may communicate those concerns and make a *recommendation* to law enforcement regarding an arrest. Contrary to Appellants' mischaracterizations, this does not constitute a "direction" to law enforcement, nor does it constitute participation in the arrest itself.

“Arrested. The child is living with her so there is fear with summoning her in.” *Id.*

In reality, communications between the deputy prosecutor’s office and police happen all of the time, but the existence of these communications do not show that DPA Jackson had any part in determining how the arrest would occur, or in the actual arrest. Even the email asking DPA Jackson whether he wants Sara Monte “summonsed” or just arrested, and his legal assistant’s reply cannot, on their face, be interpreted as direction. Rather, these emails evidence ongoing communication about concerns with the method of arrest, which was always a decision that law enforcement had to make based on the facts and circumstances of the case.

In a follow-up email sent to both Sergeant Kipp and Detective Folsom, Mr. Jackson again made a request for information as to how VPD was going to proceed. CP at 135; CP at 160. Consistent with his prior email, Mr. Jackson again stated, “. . . At any rate, if that is how you would like to proceed, just let me know.” CP at 160. Clearly, Mr. Jackson’s communications were in the form of inquiries, not directions or orders. And the communications from Sgt. Kipp to DPA Jackson are not requesting authority or direction to arrest Sara Monte, but rather seeking

information from DPA Jackson regarding pertinent details and consequences of the arrest.

Mr. Jackson was not even aware that there had been an email exchange between Sergeant Kipp and his legal assistant (Nicole Drews) until after Sara Monte's arrest. CP at 136. Appellants rely heavily on this email and attempt to re-characterize it to support their claims. However, on its face the email shows that, Ms. Drews responded to Sergeant Kipp's inquiry about whether Sara Monte should be "summonsed" or arrested without prior notice. CP at 94. Ms. Drews indicated that she thought Monte should be arrested because "[t]he child is living with her and there was fear with summoning her in." CP at 94. Since Mr. Jackson did not have knowledge of that communication at the time it occurred, he clearly did not advise Ms. Drews on how to respond. CP at 136. More importantly, Mr. Jackson did not have any discussion with Sergeant Kipp, or any other law enforcement officer, wherein he directed, ordered, or instructed law enforcement to make the arrest. CP at 136.

It is clear that none of the Respondents' actions fell outside the scope of common, everyday prosecutorial functions. Mr. Jackson merely communicated his decision to charge Sara Monte for Attempted Murder in the First Degree to law enforcement via email on October 5, 2013. CP at 135; 158. Ms. Drews merely communicated a concern about how the

arrest would be accomplished (“summonsed” vs. arrest without prior notice) based on legitimate concerns about Ms. Monte disappearing, or harming her daughter again. Indeed, Mr. Jackson specifically stated in one of his emails: “Please let me know which way you want to proceed, Barb.” CP at 158.

Finally, it is undisputed that neither DPA Jackson nor anyone from the Clark County Prosecuting Attorney’s Office was present for, or participated in, the actual arrest of Sara Monte.

III. ARGUMENT

1. Standard of Review.

On appeal of summary judgment, the standard of review is *de novo*, and the appellate court performs the same inquiry as the trial court. *Nivens v. 7-11 Hoagy's Corner*, 133 Wn.2d 192, 197-98, 943 P.2d 286 (1997). When ruling on a summary judgment motion, the court is to view all facts and reasonable inferences therefrom most favorably toward the nonmoving party. *Weyerhaeuser Co. v. Aetna Cas. & Sur. Co.*, 123 Wn.2d 891, 897, 874 P.2d 142 (1994). A reviewing court may uphold summary judgment if the pleadings, affidavits, and depositions establish that there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. *Ruff v. County of King*, 125 Wn.2d 697, 703, 887 P.2d 886 (1995); *see also*, CR 56(c).

2. Summary Judgment Should Be Affirmed Because The Respondents Are Entitled To Absolute Immunity.

Whether absolute immunity applies is a "question of law" that "may be established on a motion for summary judgment." *Hannum v. Friedt*, 88 Wn. App. 881, 886, 947 P.2d 760 (1997) (citations omitted). It has long been the law in Washington that absolute immunity bars legal actions against prosecuting attorneys.

While it is true that a prosecuting attorney *acting in a matter which is clearly outside of the duties of his office* is personally liable to one injured by his acts, a prosecuting attorney, . . . *is not liable for instituting prosecution*, although he acted with malice and without probable cause, if the matters acted on are among those generally committed by the law to the control or supervision of the office and are not palpably beyond authority of the office. (Emphasis added.)

Anderson v. Manley, 181 Wash. 327, 331, 43 P.2d 39 (1935).

This principle, which includes a prosecuting attorney's decision to charge or not charge, has been reaffirmed for decades. *Creelman Svenning*, 67 Wn.2d 882, 885, 410 P.2d 606 (1966); *Mitchelle v. Steele*, 39 Wn.2d 473, 474, 236 P.2d 349 (1951); *Schmitt v. Langenour*, 162 Wn. App. 397, 406-08, 256 P.3d 1235 (2011).

The justification for this absolute rule "is founded upon a sound public policy, not for the protection of the officers, but for the protection of the public and to ensure active and independent action of the officers charged with the prosecution of crime, for the protection of life and property." *Anderson*, 181 Wash. at 331 (emphasis added). It comes as no surprise that, time and time again, courts ranging from the United States

Supreme Court to the Washington State Supreme Court, and to the Court of Appeals, have consistently dismissed claims subject to this well-established prosecutorial immunity. *See, Imbler v. Pachtman*, 424 U.S. 409, 431, 96 S. Ct. 984, 47 L. Ed. 2d 128 (1976); *Creelman*, 67 Wn.2d at 886; *Mitchelle*, 39 Wn.2d at 474; *Schmitt*, 162 Wn. App. at 406-08, ¶¶19-23.

Additionally, Washington law protects the government entity that employs the prosecuting attorney; the government entity shares the same immunity as the individual prosecuting attorney. *Creelman*, 67 Wn.2d at 885. Therefore, a County is immune to the same extent an individual prosecutor is individually immune. *Id.*

The law clearly shows that a prosecutor is not liable for a charging decision, even if malice or evil intent motivated that decision. *Creelman*, 67 Wn.2d at 885; *Anderson*, 181 Wash. at 331. And federal law—which Washington "closely follow[s]" regarding prosecutorial immunity, extends that same absolute immunity to a prosecutor's decision to file a criminal action. *See, Schmitt*, 162 Wn. App. at 407, ¶20. For example, prosecutors have been deemed immune when: (a) filing criminal charges with alleged knowledge that the statute of limitations had run [as is claimed in this action], *McCarthy v. Mayo*, 827 F.2d 1310, 1315 (9th Cir. 1987); (b) there was a "failure to investigate the accusations against a defendant before filing charges," *Broam v. Bogan*, 320 F.3d 1023, 1029 (9th Cir. 2003); (c) "gathering [of] additional evidence after probable cause is established," *Id.*, at 1030; (d) there has been a refusal to take steps to exonerate a

defendant who has already been charged (such as dropping charges), *Cousins v. Lockyer*, 568 F.3d 1063, 1068-69 (9th Cir. 2009); (e) there was a "decision not to prosecute" an alleged crime, *Roe v. City & County of San Francisco*, 109 F.3d 578, 583 (9th Cir. 1997); or (f) the prosecutor was "conferring with potential witnesses for the purpose of determining whether to initiate proceedings." *Demery v. Kupperman*, 735 F.2d 1139, 1144 (9th Cir. 1984).

Because the "[a]nalysis of a prosecutor's absolute immunity from suit under state law claims tracks federal law immunity analysis under 42 U.S.C. § 1983," *Musso-Escude v. Edwards*, 101 Wn. App. 560, 567-68, 4 P.3d 151 (2000), the foregoing federal cases guide this Court's analysis regarding whether the prosecutor, and consequently the County, are entitled to prosecutorial immunity.

Most recently, this Court issued a partially published decision that is directly on point, and supports the Respondents' position. *Fearghal McCarthy, et. al. v. Clark County, et. al.*, 193 Wn. App. 314 (2016). In *McCarthy*, this Court affirmed summary judgment dismissal of the plaintiffs' "negligent investigation" claims against the defendants on the basis of absolute prosecutorial immunity. In particular, this Court held:

“. . . [the witness] alleges that Petty [the prosecutor] told her that she needed more charges against [the plaintiff] to strengthen her case and enable her to convict and deport [the plaintiff]. Petty told [the witness] to obtain and bring to her fitness club records to show that [plaintiff] had violated the no-contact order by going to a fitness club when [the

witness] was there with the children. Then Petty directed [the witness] to report the violation. [Plaintiff] and CPM/CCM argue that this conduct involved case investigation and fact-finding that is outside the prosecutor's function.

Again, these allegations do not indicate that Petty acted outside her scope as a prosecutor. Her actions in asking for the fitness club records and directing [the witness] to report no-contact order violations are related to her duty to make charging decisions.

Id., (emphasis added).

As in *McCarthy*, the Respondents' actions fall within the broad immunity afforded a prosecuting attorney. On summary judgment, the trial court correctly noted that communications regarding whether to pursue criminal charges, and how to bring a defendant into court for answering said charges, are clearly related to a deputy prosecutor's duty to make charging decisions and are well within prosecutorial functions. VRP at 29:10-13. In *McCarthy*, this Court held that the charging function is intimately related to the judicial process and prosecutorial immunity must apply to ensure the independence of the decision-making process. *Id.*, citing *Hannum*, 88 Wn. App. at 881.

Without question, all of the acts complained of in this matter arose from the prosecutor's charging decision. Both state and federal law are very clear; there is no liability for a prosecutor's charging decision, even if

malice or evil intent motivated the decision. *Creelman*, 67 Wn.2d at 885; *Anderson*, 181 Wash. at 331. Therefore, the even if this Court accepts Appellants' unsupportable contentions that the prosecutor acted in "bad faith," or "knowingly" violated rights, there is no impact on the outcome of this litigation; there is no legal basis to pierce the Respondents' immunity because prosecutors are acting within the scope of their duties when initiating or advancing a criminal prosecution. *See, Holland v. King Cty. Adult Det.*, No. C12-0791JLR, 2013 WL 5652505, at *4 (W.D. Wash. Oct. 15, 2013), *see also, Musso-Escude*, 101 Wn. App. at 568 (absolute immunity serves as a shield from liability even where willful misconduct is alleged), *McCarthy*, 827 F.2d at 1315 (flatly rejecting the argument that public policy requires an exception to absolute immunity where prosecutors filed criminal charges knowing that the statute of limitations had run).

The Appellants have presented no evidence that can lead a rational trier of fact to conclude that the Respondents acted outside the scope of their official duties by making a charging decision and communicating that decision to law enforcement agencies. Without such evidence, the Appellants' claims are barred by absolute immunity. The trial court's decision should be affirmed.

3. The Appellants Have Failed To Present Any Controlling Or Persuasive Authority To Support Their Position.

Even viewing all of the facts alleged by the Appellants in a light most favorable to them, there is no legal basis to waive prosecutorial immunity. Appellants do not acknowledge the *McCarthy* case at all, even though this Court directly addressed the scope and application of prosecutorial immunity. Instead, Appellants contend that *Burns v. Reed*, 500 U.S. 478, 111 S. Ct. 1934, 114 L. Ed. 2d 547 (1991) “clearly decides the issue” without providing any specific analysis to this Court. (Brief of Appellant, p. 15).

As the Respondents argued at summary judgment, *Burns* is factually and legally distinguishable from this case. CP at 124-125. In *Burns*, the Court declined to extend absolute immunity where a prosecutor “gives legal advice to police.” Specifically, the police sought advice of a state prosecutor who told them they could question an attempted murder suspect under hypnosis. *Burns*, 500 U.S. at 478. While under hypnosis, the suspect referred to herself and the alleged assailant by the same name, and this was interpreted by the police as a confession. *Id.* After the interview, the police again sought the advice of the prosecutor who told them “they probably have probable cause” to arrest. *Id.* The suspect was arrested and a probable cause hearing before the judge occurred after the arrest.³ *Id.* The key in *Burns* was that neither the arresting officers nor the

³ The facts in *Burns* also serve to highlight a significant mischaracterization by the Montes regarding judicial process. In both *Burns* and the Monte criminal case, the probable cause hearing occurred after the arrest. Although Appellants’ counsel included a lengthy quote from *Burns* in his briefing to this Court, just as he did in his summary

prosecutor informed the judge that the “confession” was obtained under hypnosis or that the suspect had otherwise consistently denied guilt. A search warrant was issued based on this misleading presentation. *Id.* The U.S. Supreme Court ruled that absolute prosecutorial immunity applied to the prosecutor’s participation in the probable cause hearing (which occurred after the suspect was arrested), but not to the prosecutor’s legal advice to police regarding the use of hypnosis and the existence of probable cause to arrest based on the “confession” that was given when the suspect was under hypnosis.

Here, the Respondents agree that *Burns* stands for the general rule that a prosecutor is not entitled to absolute immunity for giving legal advice in certain circumstances. But, again, there was no legal advice given to law enforcement officers in this case. Indeed, Appellants have not alleged (and cannot allege) that law enforcement officers sought advice from deputy prosecutor Scott Jackson regarding their investigation of Sara Monte’s actions, or that any such advice was offered. Appellants also have not alleged (and cannot allege) that law enforcement officers received legal advice from Clark County defendants regarding the existence of probable

judgment briefing, he omitted that portion of the opinion addressing judicial process, arrests, warrants, and probable cause hearings which may occur after an arrest. *See, Burns v. Reed*, 500 U.S. 478, 479, 111 S. Ct. 1934, 1936, 114 L. Ed. 2d 547 (1991). As in *Burns*, Monte was arrested first and a judge reviewed and approved the Declaration of Probable Cause during a subsequent probable cause hearing. Despite the Appellants’ numerous claims that the arrest occurred without a warrant, warrantless arrests are common and appropriate. More importantly, the fact that an arrest was made without a warrant has no effect on Clark County defendants’ protection under absolute immunity.

cause. The record before this Court clearly reveals that there was no communication about probable cause.

Appellants also cite *Kalina v. Fletcher*, 522 U.S. 118, 118 S.Ct. 502, 139 L.Ed.2d 471 (1997) in support of their claims on appeal. As was established on summary judgment, *Kalina* is factually distinct from this case. CP at 126. In *Kalina*, the United States Supreme Court held that a prosecutor was acting as an investigator when she signed a sworn affidavit personally attesting to the facts supporting an arrest warrant and some of those facts were inaccurate. *Id.* at 129-31, 118 S.Ct. 502. Moreover, the prosecutor was found to have knowingly made false statements of fact in the affidavit supporting application for arrest warrant. *Id.* The prosecutor was therefore not protected by absolute immunity. *Id.*

Here, there is no factual or legal argument that the Respondents personally vouched for the truth of the facts set forth in the arrest warrant application, or that Respondents knowingly made false statements of fact in the Declaration of Probable Cause. Appellants also cannot support their assertions that Respondents assumed a “police role” in Sara Monte’s arrest. The trial court recognized this lack of support and indicated in its ruling that the Respondents did not engage in police activities and/or make the arrest. VRP at 29:2-4; VRP at 39:16-19. The trial court’s ruling granting summary judgment should be affirmed.

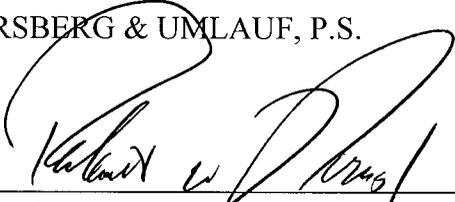
IV. CONCLUSION

For all of the foregoing reasons, Respondents respectfully request that this Court affirm the trial court's order granting summary judgment. Respondents are protected by absolute immunity, which precludes the Appellants from pursuing tort claims arising out of the initiation and pursuit of a criminal prosecution against Sara Monte.

DATED this 25th day of July, 2016.

FORSBERG & UMLAUF, P.S.

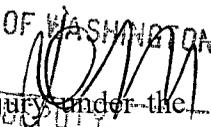
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CERTIFICATE OF SERVICE STATE OF WASHINGTON

BY 

The undersigned certifies under the penalty of perjury under the laws of the State of Washington that I am now and at all times herein mentioned, a citizen of the United States, a resident of the State of Washington, over the age of eighteen years, not a party to or interested in the above-entitled action, and competent to be a witness herein.

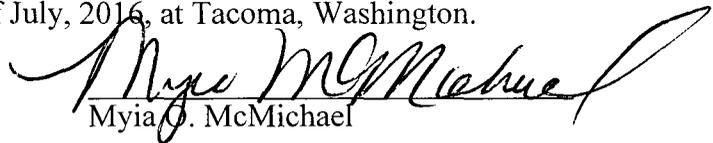
On the date given below I caused to be served the foregoing RESPONDENTS' OPPOSITION TO APPELLANTS' OPENING BRIEF on the following individuals in the manner indicated:

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Court Administrator / Clerk of the
Court
Court of Appeals
Division II
950 Broadway, Suite 300
Tacoma, WA 98402-4454
Facsimile: 1-253-593-2806
 Via U.S. Mail
 Via Hand Delivery
 Via ECF

SIGNED this 25th day of July, 2016, at Tacoma, Washington.


Myia G. McMichael