FILED
November 5, 2026
C. CASEY FORBES, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA

STATE OF WEST VIRGINIA
SUPREME COURT OF APPEALS

James Smith, former Sheriff of Mingo County, in his official capacity and individually; Joe Smith, Sheriff of Mingo County, in his official capacity and individually; Norman Mines, Sheriff Deputy of Mingo County, in his official capacity and individually; Allen Mounts, Sheriff Deputy of Mingo County, in his official capacity and individually; others as of yet identified Mingo County Sheriff Deputies; State of West Virginia; West Virginia State Police; Dustin Contos, West Virginia State Police Officer, in his official capacity and individually; Cory Maynard, West Virginia State Police Officer, in his official capacity and individually; and others as of yet identified State Police Troopers,
Respondents Below, Petitioners

v.) No. 24-642 (23-ICA-299)

Amanda Goff, Robert H. Carlton individually and d/b/a Robert H. Carlton Law Office, and Homestead Realty Incorporated,
Petitioners Below, Respondents

MEMORANDUM DECISION

The Petitioners, James Smith, former Sheriff of Mingo County, in his official capacity and individually; Joe Smith, Sheriff of Mingo County, in his official capacity and individually; Norman Mines, Sheriff Deputy of Mingo County, in his official capacity and individually; and Allen Mounts, Sheriff Deputy of Mingo County, in his official capacity and individually,[1] appeal the memorandum decision of the Intermediate Court of Appeals of West Virginia ("ICA"). The ICA

[1] This appeal relates to the Petitioners, James Smith, Joe Smith, Norman Mines, and Allen Mounts.

affirmed the June 13, 2023, order of the Circuit Court of Mingo County that denied the Respondents', Amanda Goff and Robert H. Carlton's, motion for default judgment and reversed the June 13, 2023, order of the circuit court that granted the petitioners' motion to dismiss.[2] *See Goff v. Smith*, No. 23-ICA-299, 2024 WL 4052866 (W. Va. Ct. App. Sept. 4, 2024) (memorandum decision). The petitioners argue that the ICA erred in considering the respondents' brief and in reversing the circuit court's order that granted their motion to dismiss. Upon our review, finding no substantial question of law and no prejudicial error, we determine that oral argument is unnecessary and that a memorandum decision summarily affirming the ICA's memorandum decision is appropriate. *See* W. Va. R. App. P. 21(c).

The respondents initiated this action and filed an amended complaint on August 18, 2021, asserting various alleged acts against the named defendants, including possible claims against the petitioners of, among other things: (1) unlawful detainment of Ms. Goff; (2) sexual harassment of Ms. Goff; (3) malicious prosecution; (4) unlawful seizure of personal property; (5) emotional distress upon the respondent(s); and (6) physical, mental, and emotional strain upon the respondent(s).

The petitioners filed a motion to dismiss the respondents' amended complaint pursuant to Rule 12(b)(6) of the West Virginia Rules of Civil Procedure. By order entered on June 13, 2023, the circuit court granted the petitioners' motion to dismiss and, in doing so, determined that the amended complaint did not set forth any specific claim or cause of action of any specific plaintiff against any particular defendant and that the respondents' response to the motion to dismiss failed to articulate any cause of action purportedly contained within the amended complaint. Also on June 13, 2023, the circuit court entered an order denying the respondents' motion for default judgment against the petitioners.

The respondents appealed to the ICA,[3] which affirmed the circuit court's order denying the respondents' motion for default judgment and reversed the circuit court's order granting the petitioners' motion to dismiss. *Goff*, 2024 WL 4052866, at *5. In reversing the circuit court's order that granted the motion to dismiss, the ICA determined that it was premature to dismiss the respondents' claims against the petitioners at this stage of the litigation. The petitioners appeal the ICA's reversal of the circuit court's June 13, 2023, order granting their motion to dismiss.

On appeal to this Court, the petitioners contend the ICA erred in reversing the circuit court's dismissal of the amended complaint and in considering the respondents' brief on appeal to the ICA based on purported insufficiencies within the respondents' brief. We apply a de novo standard of review to an ICA decision from a circuit court's grant of a motion to dismiss. Syl. Pt. 1, *Folse v. Rollyson*, 251 W. Va. 566, 915 S.E.2d 344 (2025).

Upon consideration of the record and briefs, we agree with the ICA that, based on the

[2] The petitioners are represented by counsel Chip E. Williams and Jared C. Underwood. The respondents are represented by counsel Robert H. Carlton.

[3] The respondents asserted various assignments of error before the ICA. The ICA limited its review and consideration to the referenced June 13, 2023, circuit court orders.

allegations contained in the amended complaint, it was premature for the circuit court to dismiss the claims against the petitioners upon a Rule 12(b)(6) motion to dismiss. In testing the sufficiency of a complaint, a Rule 12(b)(6) motion to dismiss should be granted only if "it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief." Syl. Pt. 3, in part, *Chapman v. Kane Transfer Co., Inc.*, 160 W. Va. 530, 236 S.E.2d 207 (1977). Further, this Court has continuously stated that "the complaint is construed in the light most favorable to plaintiff, and its allegations are to be taken as true." *Lodge Distrib. Co., Inc. v. Texaco, Inc.*, 161 W. Va. 603, 605, 245 S.E.2d 157, 158 (1978); *accord Newton v. Morgantown Mach. & Hydraulics of W. Va., Inc.*, 242 W. Va. 650, 653, 838 S.E.2d 734, 737 (2019). Additionally, "[w]hen a Rule 12(b)(6) motion is made, the pleading party has no burden of proof. Rather, the burden is upon the moving party to prove that no legally cognizable claim for relief exists." *Mountaineer Fire & Rescue Equip., LLC v. City Nat'l Bank of W. Va.*, 244 W. Va. 508, 520, 854 S.E.2d 870, 882 (2020). Accordingly, we summarily affirm the ICA's memorandum decision.

Affirmed.

ISSUED: November 5, 2026

CONCURRED IN BY:

Chief Justice C. Haley Bunn
Justice William R. Wooton
Justice Charles S. Trump IV
Justice H. L. Kirkpatrick
Justice James W. Flanigan