

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Rachel Watson,	:	
	:	
Appellant	:	
	:	
v.	:	
	:	
Brian Keenan, John Alston,	:	No. 925 C.D. 2024
and Jimmy Brown	:	Submitted: July 24, 2026

BEFORE: HONORABLE PATRICIA A. McCULLOUGH, Judge
HONORABLE CHRISTINE FIZZANO CANNON, Judge
HONORABLE MATTHEW S. WOLF, Judge

OPINION NOT REPORTED

MEMORANDUM OPINION
BY JUDGE FIZZANO CANNON

FILED: October 15, 2026

Rachel Watson (Watson) appeals from the September 24, 2024 order of the Civil Division of the Court of Common Pleas of Philadelphia County (Trial Court) denying Watson’s motions for post-trial relief in an intentional tort action against police officers Brian Keenan (Keenan) and John Alston (Alston) (collectively, Appellees).¹ Upon review, we affirm.

I. Background

This case involving an arrest for driving under the influence (DUI) reflects a conflicting account of the reported events due to the absence of police body

¹ The original action included Co-Defendant Officer Jimmy Brown (Brown). Brown first encountered Watson during processing at the Philadelphia Detention Unit (PDU) to perform a blood draw, which Watson refused. Reproduced Record (R.R.) at 198a. However, Watson withdrew her case against Brown by motion at the close of her case-in-chief. *Id.* at 288a-89a.

camera footage.² *See* Reproduced Record (R.R.) at 263. As such, we address the relevant disparities in each party’s trial testimony.

On August 29, 2020, around 3:00 AM, Appellees responded to a radio call for a person with a weapon. R.R. at 265a. The police radio call mentioned an Acura SUV.³ *Id.* at 275a. Upon arriving at the scene, Appellees found Watson’s Acura parked halfway on the street and sidewalk near her residence. *Id.* at 275a-76a. The car was running and Watson was seated in the driver’s seat. *Id.* at 259a. Upon observation, Watson exhibited signs of drunkenness, including slurred speech, glossy bloodshot eyes, apparent imbalance, belligerent behavior, and incoherency to police commands. *Id.* at 259a-61a. Appellees testified that there was an odor of alcohol on Watson’s breath and an open bottle of wine on Watson’s front passenger seat. *Id.* at 260a-62a & 276a.

Appellees also testified that Watson ignored Appellees’ instructions to exit her vehicle and instead put the car in drive and moved the vehicle several feet forward. R.R. at 260a. Appellees instructed Watson to put her car in park, and she complied before exiting her vehicle and walking toward her residence. *Id.* No field sobriety tests were conducted because Appellees were not trained in field sobriety. *Id.* at 263a & 270a. Ultimately, Appellees arrested Watson for DUI and separate

² The Emergency Patrol Wagon was equipped with a camera and captured some footage, which was played during the civil trial. R.R. at 203a & 276a. However, the Emergency Patrol Wagon was only summoned after Watson’s arrest. *See id.* at 261a.

³ Watson testified that she called 911 three times before Appellees arrived because there were several seemingly intoxicated women “harassing and threatening [her],” one of which struck Watson’s car three times with a PVC pipe. R.R. at 200a.

officers transported her to the Philadelphia Detention Unit (PDU) via Emergency Patrol Wagon for a breathalyzer test.⁴ *Id.* at 261a & 270a.

Watson contended that she informed officers that she was diabetic and that her dizziness, slurred speech, and unsteady gait were symptomatic of a diabetic episode. R.R. at 204a. However, Watson did not recall speaking directly to the Appellees. *Id.* at 211a-12a. Watson testified:

I spoke to several officers that night and I spoke to . . . whoever listened and whoever didn't. Whether they heard me, I don't know I don't remember [Alston] being there. I only saw him at the criminal trial. [Keenan] was there, but I don't remember speaking directly to him. There were multiple officers that I encountered that night.

Id. Appellees did not remember Watson telling them that she was diabetic but recalled Watson saying she was “not feeling well” during the arrest. *Id.* at 266a-67a & 278a-79a.

Upon arrival at the PDU, Watson informed a nurse of her diabetes. R.R. at 212a. The nurse obtained a blood sample, determined Watson's blood sugar was high, and sent her to the hospital. *Id.* at 204a-05a. Watson was admitted to the hospital for diabetic ketoacidosis after examination, but she remained in police custody. *Id.* at 205a. On September 1, 2020, Watson was discharged from the hospital and was immediately charged with one count of DUI under Section 3802(a)(1) of the Vehicle Code, 75 Pa.C.S. § 3802(a)(1). *Id.* at 193a & 205a-06a. She was ultimately acquitted following a bench trial on May 10, 2022; the criminal division of the Court of Common Pleas of Philadelphia County found that Watson's

⁴ Watson testified that Appellees never told her the reason for her arrest despite her repetitive inquiries. R.R. at 204a.

hospitalization for diabetic ketoacidosis outweighed the lack of evidence for her alleged intoxication. *Id.* at 107a & 116a.

On September 27, 2022, Watson filed a civil complaint for the intentional torts of Assault and Battery, False Arrest, Malicious Prosecution, Intentional Infliction of Emotion Distress, and Defamation and against Appellees. R.R. at 1a-22a. The case proceeded to a jury trial on March 13, 2024. *Id.* at 191a. Appellees requested jury instructions to the effect that the jury could not impose liability against Appellees unless it found Appellees had committed willful misconduct pursuant to Section 8550 of the Political Subdivision Tort Claims Act (Tort Claims Act), 42 Pa.C.S. § 8550. At the close of evidence, the judge instructed the jury that

[w]illful misconduct entails actual prior knowledge of a plaintiff's peril and must be carried out with the intention of achieving exactly that wrongful purpose. Willful misconduct means that an officer's tortious behavior may be characterized as willful misconduct only when an officer subjectively intends to do something he knows is wrongful. Now, the plaintiff must show not only that [Defendants] intended to commit the acts that they are [accused] of carrying out but also that [Defendants] understood that the actions they intended to take were unlawful and chose to take the actions anyway. Gross negligence or recklessness is not sufficient to prove willful misconduct.

Id. at 306a. The verdict sheet was subdivided into five, two-part questions for each intentional tort.⁵ *Id.* at 131a-33a. The structure was identical for each of the five

⁵ For example, Question 1 provided:
I. ASSAULT

torts and the instructions did not require the jury to answer the issue of willful misconduct if it did not first find by a preponderance of the evidence that Appellees were liable for the tort in question. *Id.* The jury found that Appellees were not liable for any of the torts on the verdict sheet; therefore, it never addressed the question of whether Appellees' actions constituted willful misconduct. *Id.*

On March 27, 2024, Watson filed a post-trial motion requesting judgment notwithstanding the verdict (JNOV) in her favor or, in the alternative, a new trial. R.R. at 119a. Watson contended that the Trial Court had no basis to give a willful misconduct instruction but instead should have only instructed the jury on the underlying torts. *Id.* at 119a-20a. On April 2, 2024, Watson filed a second, untimely post-trial motion contending that arguments made by Appellees during closing argument were improper and prejudicial.⁶ *See id.* at 154a. The Trial Court denied Watson's post-trial motions, and Watson appealed.⁷

A. Has [Watson] proved by a preponderance of the evidence that [Appellees] assaulted her?

[Alston] Yes _____ No _____

[Keenan] Yes _____ No _____

If you answered "yes," proceed to Question IB.

If you answered "no," skip to Question II.

B. Has [Watson] proved by a preponderance of the evidence that [Appellees'] actions as outlined in the preceding question constituted "willful misconduct"?

[Alston] Yes _____ No _____

[Keenan] Yes _____ No _____

Proceed to Question II.

R.R. at 131a (emphasis in original).

⁶ Watson's second post-trial motion is not of record, and she does not oppose its denial on appeal. *See* Watson's Br. at 5.

⁷ Watson first appealed to the Superior Court. Notice of Appeal at 1. Appellees filed an application to transfer to this Court, which the Superior Court granted on July 19, 2024. Super.

Prior to the submission of Appellees’ brief, Appellees filed an unopposed motion to stay the briefing schedule until 45 days after this Court’s issuance of its decision in *Scott v. Canela-Perez*, 344 A.3d 140 (Pa. Cmwlt. 2025) (*en banc*). Appellees’ Appl. for Stay, 6/18/2025. This Court granted the motion and stayed the briefing schedule on the basis that the issues in the instant appeal are “substantially similar if not identical to” those which this Court heard *en banc* in *Scott*, 344 A.3d at 140. Cmwlt. Ct. Order, 6/30/2025. The parties were directed to file a joint status report within 20 days of this Court’s filing of *Scott* and the parties continued to file joint status reports until the Supreme Court denied the petition for allowance of appeal in *Scott v. Canela-Perez*, 353 A.3d 1262 (Pa. 2026) (*allocatur denied*). *Id.*; Joint Status Reports, 9/2/2025, 10/3/2025 & 2/17/2026. By order dated February 24, 2026, this Court lifted the stay of the briefing schedule and directed Appellees to file their joint appellate brief. Cmwlt. Ct. Order, 2/24/2026.

II. Issues

Before this Court,⁸ Watson argues that the Trial Court “patently erred” by issuing a jury instruction which required an additional finding of “willful

Ct. Order, 7/19/2024. In an order dated September 17, 2024, this Court observed that judgment had not been entered in the Trial Court and this Court directed Watson to cause entry of judgment to be entered on the Trial Court docket. Cmwlt. Ct. Order, 9/17/2024; *see Scott v. Canela-Perez*, 344 A.3d 140, 141 n.2 (Pa. Cmwlt. 2025) (noting that “[a]n appeal is properly taken from the entry of judgment, not the denial of a post-trial motion”); *see also K.H v. J.R.*, 826 A.2d 863, 872 (Pa. 2003) (holding that an appeal is treated as filed where judgment is subsequently entered on an interlocutory order denying post-trial motions). The Trial Court entered final judgment on September 24, 2024, and Watson timely certified such judgment with this Court on October 3, 2024. Watson’s Response to Cmwlt. Ct. Order, 10/03/2024.

⁸ Where a trial court denies a litigant’s request for a new trial, this Court “is obligated to apply an abuse of discretion standard in reviewing [the] trial court’s denial . . . and may overturn

misconduct” to establish Defendants’ liability pursuant to Section 8550 of the Tort Claims Act, 42 Pa.C.S. § 8550. Watson’s Br. at 5. Specifically, Watson asserts that “willful misconduct” and “intentional torts” are synonymous terms and that the Trial Court’s additional instructions confused the jury on the issue of liability. *Id.* at 14 & 16. Watson further asserts that the Tort Claims Act’s willful misconduct standard only applies where personal liability has already been established and the municipal employer attempts to revoke indemnification for individually incurred liabilities. *Id.* at 7.

Appellees argue that any alleged error as to the inclusion of willful misconduct in the jury instructions was harmless because the jury never reached the issue of willful misconduct. Appellees’ Br. at 11. Appellees also maintain that the instruction was proper because Pennsylvania precedent and the plain language of the Tort Claims Act require a separate willful misconduct jury instruction in order to vitiate immunity. *Id.* at 15.

III. Discussion

Willful Misconduct as a Bar to Immunity

It is well established that “[t]he harmless error doctrine underlies every decision to grant or deny a new trial. A new trial is not warranted merely because some irregularity occurred during the trial . . . the moving party must demonstrate to the trial court that he or she suffered prejudice from the mistake.” *Harman ex rel.*

the trial court’s determination” only if that court “reached a conclusion that overrides or misapplies the law,” or if the trial court acted in a way that was “manifestly unreasonable or [was] the result of partiality, prejudice, bias or ill-will.” *Ball v. Bayard Pump & Tank Co.*, 67 A.3d 759, 767 (Pa. 2013) (citing *Middletown Twp. v. Lands of Stone*, 939 A.2d 331, 335 n.3 (Pa. 2007)). In examining jury instructions, this Court’s scope of review “is to determine whether the trial court committed a clear abuse of discretion or an error of law controlling the outcome of the case.” *Von Der Heide v. Dep’t of Transp.*, 718 A.2d 286, 288 (Pa. 1998).

Harman v. Borah, 756 A.2d 1116, 1122 (Pa. 2000). Watson posits that her post-trial motion for a new trial was improperly denied because the Trial Court “prejudicially confused the jury” by requiring a separate finding of willful misconduct. Watson’s Br. at 5. We disagree.

Police officers are entitled to official immunity under Section 8541 of the Tort Claims Act, 42 Pa.C.S. § 8541, which shields employees of governmental agencies from “damages on account of any injury to a person or property caused by any act of the local agency or an employee thereof[.]” However, Section 8550, 42 Pa.C.S. § 8550, vitiates such immunity upon a finding of willful misconduct. Specifically, Section 8550 states:

In any action against a local agency or employee thereof for damages on account of an injury caused by the act of the employee in which it is judicially determined that the act of the employee caused the injury and that such act constituted a crime, actual fraud, actual malice or willful misconduct, the provisions of sections 8545 (relating to official liability generally), **8546 (relating to defense of official immunity)**, 8548 (relating to indemnity) and 8549 (relating to limitation on damages) shall not apply.

42 Pa.C.S. § 8550 (emphasis added). Thus, by virtue of the plain language of Section 8550, a separate willful misconduct inquiry is required to determine whether the defense of official immunity applies. *See* 42 Pa.C.S. § 8546; *see also York v. Kanan*, 298 A.3d 533, 546 (Pa. Cmwlth. 2023) (holding that “the plain language of Section 8550 applies to both immunity and indemnity”).

Moreover, Pennsylvania caselaw has repeatedly established that willful misconduct must be proven separately in cases involving the alleged intentional torts of police officers who are entitled to immunity under the Tort Claims Act, 42 Pa.C.S. § 8550. In *Renk v. City of Pittsburgh*, 641 A.2d 289 (Pa. 1994), the

Pennsylvania Supreme Court held that “willful misconduct” and “intentional tort” were not synonymous in police brutality cases because a police officer could be liable for a tort, yet “a police officer may use such force as is necessary under the circumstances to effectuate [an] arrest.” *Renk*, 641 A.2d at 293; *see also York*, 298 A.3d at 546 (requiring a separate jury instruction for willful misconduct to remove immunity); *Pettit v. Namie*, 931 A.2d 790, 801 (Pa. Cmwlth. 2007) (quoting *Williams v. City of Phila.*, 569 A.2d 419, 421-22 (Pa. Cmwlth. 1990) and explaining that, absent willful misconduct, an employee of a local agency is immune from liability under the Tort Claims Act, 42 Pa.C.S. § 8550)).

While the instant matter was stayed, this Court issued a unanimous *en banc* decision in *Scott*. In *Scott*, the trial court refused to include a jury interrogatory proposed by police officers concerning possible willful misconduct in an intentional tort action. 344 A.3d at 143. We held that such refusal was both fundamental error and prejudicial to the police officers because the trial court allowed the jury to impose liability without the finding of willful misconduct that was necessary to defeat the immunity that the officers were entitled to under the Tort Claims Act, Pa.C.S. § 8546 & 8550. *Id.* at 149.

In applying *Scott*, we conclude that the jury instructions and verdict sheet appropriately included the separate issue of possible willful misconduct by Appellees because such finding was required to vitiate Appellees’ statutorily

imposed immunity under the Tort Claims Act.⁹ *See* 42 Pa.C.S. §§ 8541 & 8550; *see also Scott*, 344 A.3d at 148-49.

IV. Conclusion

Based on the foregoing discussion, the Trial Court's order is affirmed.

CHRISTINE FIZZANO CANNON, Judge

⁹ Even if we discerned any error in the willful misconduct instructions, and we did not, any such error was harmless because the jury never reached the question. It is well established that “allegations of error are harmless where the jury is not required to deliberate[] over the issue out of which the alleged error arises in order to reach its verdict.” *Boyle v. Indep. Lift Truck, Inc.*, 6 A.3d 492, 496 (Pa. 2010) (holding that any purported error in an unanswered question is harmless where a jury, through a sequential special verdict sheet, found no liability on the part of a defendant and was explicitly directed not to answer further questions).

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ORDER

AND NOW, this 15th day of October, 2026, the September 24, 2024
order of the Court of Common Pleas of Philadelphia County is AFFIRMED.

CHRISTINE FIZZANO CANNON, Judge