THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING EXCEPT AS PROVIDED BY RULE 239(d)(2), SCACR.

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

Sylvia Dunbar, as Guardian ad Litem for Akeya
Johnson, a minor under the age of eighteen
(18) years,   Respondents,

v.

Willette L. Johnson,   Appellant.

Appeal From Allendale County
Perry M. Buckner, Circuit Court Judge

Unpublished Opinion No. 2004-UP-500
Submitted September 14, 2004 – Filed October 5, 2004

AFFIRMED

Lewis C. Lanier, of Orangeburg, for Appellant.

Mark B. Tinsley, of Allendale and Robert N.
Hill, of Newberry, for Respondent.

PER CURIAM: Sylvia Dunbar brought this action as Guardian ad Litem for Akeya Johnson, a minor under the age of eighteen, to recover damages as a result of an automobile accident in which Akeya Johnson was a passenger in a vehicle driven by Willette L. Johnson. The jury returned a verdict in favor of Akeya in the amount of $62,000 and a judgment was entered in this amount. Willette Johnson appeals, claiming the trial court erred in denying her motion for a new trial because the verdict was excessive and the trial court failed to issue a jury charge on sudden emergency. She also argues a new trial should have been granted because the circuit court improperly admitted some testimony from the investigating officer while improperly excluding other testimony. We affirm.

ANALYSIS

Because Appellant failed to address the trial court's initial ground for denying her post-trial motion, we need not address the issues raised on appeal. We affirm the circuit court's denial based solely on the fact that Appellant's motion for a new trial was untimely filed.

Rule 59(b), SCRCP, states "[t]he motion for a new trial shall be made promptly after the jury is discharged, or in the discretion of the court not later than 10 days thereafter." Following

discharge of the jury, the trial court granted Appellant the maximum ten days to file her post-trial motions. Documents received by this court from the Allendale County courthouse reveal that Appellant's motion was filed beyond the ten-day period.

Initially, the trial court found Appellant improperly made her motion pursuant to a repealed statute. The court expanded on this ground for denial as follows:

> This fact alone provides a sufficient basis for the denial of Defendant's motion. Nonetheless, the motion also would be denied if it had been made pursuant to Rule 59(a), SCRCP. [the current rule for post-trial motions]

In a footnote to the above quotation, the court continued:

> The Court notes that the time limit for filing a Rule 59(a) motion has expired, but because its ruling would be the same if the proper motion had been timely filed, it discusses the validity of the request for a new trial.

The trial court went on to discuss the merits of Appellant's motion for a new trial based on the issues now raised on appeal. The motion was ultimately denied.

Appellant argues several errors in the trial court's order, but does not raise an exception to the trial court's denial of the motion on the basis of timeliness. Accordingly, we affirm the trial court's decision based solely on the untimeliness of Appellant's motion for a new trial. See Dwyer v. Jenkins, 289 S.C. 118, 120-121, 344 S.E.2d 886, 888 (Ct. App. 1986) (affirming the circuit court when unchallenged alternative findings support the judgment); 5 Am. Jur. 2d Appellate Review § 829 at 489 (1995) ("where a separate and independent ground from the one appealed supports the judgment made below, and is not challenged on appeal, the appellate court must affirm."). We need not address the merits of the other issues raised on appeal. See Rule 220 (c), SCACR; Futch v. McAllister Towing of Georgetown, Inc., 335 S.C. 598, 613, 518 S.E.2d 591, 598 (1999) (holding appellate courts need not address remaining issues when the disposition of a prior issue is dispositive).

The circuit court's decision to deny Appellant's motion for a new trial is

AFFIRMED.

GOOLSBY, ANDERSON, and WILLIAMS, JJ., concur.