

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

WILBUR CHESTER

v.

POLICE OFFICER
ERIC FREDERICKSDORF, et al.

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CIVIL ACTION
No. 01-CV-1876

O'Neill, J.

October , 2001

MEMORANDUM

I. INTRODUCTION

This is a civil rights action, arising under 42 U.S.C. § 1983, brought against police officers and the City of Philadelphia. Plaintiff Wilbur Chester, currently a prisoner at S.C.I. Waymart, asserts that he was the victim of excessive force during his arrest and seeks compensatory damages. Before me is the municipal defendant's motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim upon which relief can be granted. For the reasons stated below, I will grant the City's motion to dismiss with leave to amend.

II. BACKGROUND

In his handwritten amended complaint, plaintiff claims he was severely beaten by defendant Officer Eric Fredericksdorf and other unknown police officers after being apprehended at 2:30 a.m. on the corner of 57th and Cherry streets in Philadelphia on July 1, 1999. Specifically, Plaintiff alleges the police "kicked, stomped and struck [him] about [his] head, legs, and body

and dragged [him] on the ground.” Also, plaintiff avers that his subsequent injuries required treatment at the emergency department of Misericordia Hospital. Although plaintiff’s amended complaint joins the City of Philadelphia as a municipal defendant and seeks damages from the City, the complaint does not allege that the City failed to properly train the defendant police officers or that a failure to train was the proximate cause of plaintiff’s injuries.

III. STANDARD FOR RULE 12(b)(6)

A Rule 12(b)(6) motion to dismiss examines the sufficiency of the complaint. Conley v. Gibson, 355 U.S. 41, 45 (1957). In determining the sufficiency of the complaint I must accept all the plaintiff’s allegations as true and draw all reasonable inferences therefrom. Graves v. Lowery, 117 F.3d 723, 726 (3d Cir. 1997). The Supreme Court has held that plaintiffs asserting constitutional violations against a municipality need only meet the basic requirements of notice pleading and are not required to plead specific facts with particularity. See Leatherman v. Tarrant County Narcotics Intelligence and Coordination Unit, 507 U.S. 163, 167-68 (1993), applying Federal Rule of Civil Procedure 8(a)(2).

The Federal Rules of Civil Procedure do not require a claimant to set out in detail the facts upon which he bases his claim. To the contrary, all the Rules require is “a short and plain statement of the claim” that will give the defendant fair notice of what the plaintiff’s claim is and the grounds upon which it rests.

Id., quoting Conley, 355 U.S. at 47. Moreover, when the plaintiff is a pro se litigant, as he is here, I have a special obligation to construe his complaint liberally. Zilich v. Lucht, 981 F.2d 694, 694 (3d Cir. 1992), citing Haines v. Kerner, 404 U.S. 519, 520 (1972). Despite my application of this liberal standard to the instant case, I find plaintiff’s amended complaint to be insufficient.

IV. DISCUSSION

Plaintiff has failed to plead all elements necessary to establish municipal liability under his § 1983 claim of excessive force. To make a claim under § 1983, the plaintiff must demonstrate that a person acting under the color of law deprived him of a federal right. See Berg v. County of Allegheny, 219 F.3d 261, 268 (3d Cir. 2000). In Monell v. New York City Department of Social Services, 436 U.S. 658, 690 (1977), the Supreme Court held that liability can be extended to the municipality if it is “responsible” for a constitutional violation committed by one of its employees. City of Canton, Ohio v. Harris, 489 U.S. 378, 387-88 (1989). Specifically, the Supreme Court has recognized that inadequacy of police training may serve as a basis to extend liability under § 1983 to a municipality when “the failure to train amounts to deliberate indifference¹ to the rights of persons with whom the police come into contact.” Id. at 388. Moreover, a plaintiff must demonstrate causation by showing that the city’s deliberate indifference led to the alleged violation. See id. at 391 (“[F]or liability to attach . . . the deficiency in a city’s training program must be closely related to the ultimate injury); Beck v. City of Pittsburgh, 89 F.3d 966, 972 n.6 (3d Cir. 1996) (“The plaintiff bears the burden of proving that the municipal practice was the proximate cause of the injuries suffered.”).

In the present situation, plaintiff does not allege 1) that the City of Philadelphia failed to train the defendant police officers and 2) that the failure to train was the proximate cause of

¹ For example, failure to train municipal employees can constitute deliberate indifference when the failure has caused a pattern of constitutional violations. See Berg, 219 F.3d at 276; cf. Oklahoma City v. Tuttle, 471 U.S. 808, 823-24 (1985) (“Proof of a single incident of unconstitutional activity is not sufficient to impose liability under Monell, unless proof of the incident includes proof that it was caused by an existing, unconstitutional municipal policy.”)

plaintiff's injuries. Aside from these two deficiencies, plaintiff's complaint appears to plead adequately an actionable Fourth Amendment violation under § 1983. See Groman v. Township of Manalapan, 47 F.3d 628, 633 (3d Cir. 1995), citing, Graham v. Conner, 490 U.S. 386, 394-95 (1989) ("An excessive force claim under § 1983 arising out of law enforcement conduct is based on the Fourth Amendment's protection from unreasonable seizures of the person."). I will dismiss plaintiff's complaint with leave to amend within 30 days from date.

An appropriate order follows.

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ORDER

AND NOW, this day of October, 2001, after considering the municipal defendant's motion to dismiss, and the plaintiff's response thereto, and for the reasons set forth in the accompanying memorandum, it is ORDERED that municipal defendant's motion is GRANTED, and plaintiff's claims against the City of Philadelphia are DISMISSED with leave to amend within 30 days from date.

THOMAS N. O'NEILL, JR., J.