

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

KEVIN RHAMES : CIVIL ACTION
 :
 v. :
 :
 SCHOOL DISTRICT OF : NO. 01-5647
 PHILADELPHIA, ET AL. :

M E M O R A N D U M

Padova, J.

July 17, 2002

Before the Court is Defendants' Motion pursuant to Federal Rules of Civil Procedure 11, 12(b)(6), and 56.¹ For the reasons that follow, the Court grants Defendants' Motion pursuant to Rule 56 for Summary Judgment and denies Defendants' Motion pursuant to Rule 11 for sanctions.²

I. BACKGROUND

The Complaint alleges the following facts. On January 6, 2000, Plaintiff Kevin Rhames was en route from his geometry class in University City High School, Philadelphia School District, when he encountered another student, Felix Taylor, on the third floor. They exchanged words and then Felix Taylor "raised his hand to strike the Plaintiff, at which time Plaintiff defended himself

¹Because Defendants previously filed an answer to the Complaint, the Court considers the Rule 56 Motion instead of the Rule 12(b)(6) Motion. Plaintiff responded to Defendants' Motion for Summary Judgment.

²Defendants have failed to demonstrate any objectively unreasonable conduct by Plaintiff for sanctions pursuant to Rule 11. See Fellheimer, Eichen & Braverman v. Charter Technologies, Inc., 57 F.3d 1215, 1225 (3d Cir. 1995). Accordingly, Defendants' Motion for Rule 11 sanctions is denied.

creating a volatile situation in the school hallway." (Compl. ¶ 13-15). After the scuffle continued, Melvin Jordan, another male accompanying Felix Taylor, who had no authority to be on the premises, jumped Plaintiff from behind and struck him in the left temple with the butt of a gun, knocking Plaintiff to the ground. As school security was called, Felix Taylor and Melvin Jordan were witnessed running down the third floor hallway. Defendants Mr. Person, Mr. Taylor, Mr. Medley and Mr. Lee, school security personnel, arrived on the scene. They radioed that a black male was running down the steps and was attempting to get out of the building. Security personnel failed to stop the individual before he left the building. Meanwhile, Plaintiff explained to Defendants that he was threatened by the two individuals who ran away and that he attempted to defend himself during which time he was attacked from behind and hit on the head.

Information about this incident was relayed to the school Dean, Defendant Mr. Williams, who arrived on the scene and ordered the immediate arrest of Plaintiff. Defendant Medley placed Plaintiff in handcuffs and escorted him through the halls in view of fellow students, as a Philadelphia police car awaited outside. Plaintiff alleges that Defendants failed to provide him with medical attention even though he sustained obvious injuries, which included a lacerated finger and swollen left eye. Plaintiff was transported to the 16th Philadelphia Police District at 39th Street

and Lancaster Avenue and then transferred to the 18th Philadelphia Police District located at 55th & Pine Streets. Plaintiff was placed under arrest and charged with assault, which resulted in him being detained in a cell for about 12 hours.

After a court hearing on June 1, 2000, all charges against Plaintiff were dismissed without prejudice.

II. LEGAL STANDARD

Summary judgment is appropriate "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(c). An issue is "genuine" if the evidence is such that a reasonable jury could return a verdict for the non-moving party. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986). A factual dispute is "material" if it might affect the outcome of the case under governing law. Id.

A party seeking summary judgment always bears the initial responsibility for informing the district court of the basis for its motion and identifying those portions of the record that it believes demonstrate the absence of a genuine issue of material fact. Celotex Corp. v. Catrett, 477 U.S. 317, 322 (1986). Where the non-moving party bears the burden of proof on a particular issue at trial, the movant's initial Celotex burden can be met

simply by "pointing out to the district court that there is an absence of evidence to support the non-moving party's case." Id. at 325. After the moving party has met its initial burden, "the adverse party's response, by affidavits or otherwise as provided in this rule, must set forth specific facts showing that there is a genuine issue for trial." Fed. R. Civ. P. 56(e). That is, summary judgment is appropriate if the non-moving party fails to rebut by making a factual showing "sufficient to establish the existence of an element essential to that party's case, and on which that party will bear the burden of proof at trial." Celotex, 477 U.S. at 322.

Evidence introduced to defeat or support a motion for summary judgment, however, must be capable of being admissible at trial. Callahan v. AEV, Inc., 182 F.3d 237, 252 n.11 (3d Cir. 1999)(citing Petruzzi's IGA Supermarkets, Inc. v. Darling-Delaware Co., 998 F.2d 1224, 1234 n. 9 (3d Cir. 1993)). The Court must view the evidence presented on the motion in the light most favorable to the opposing party. Anderson, 477 U.S. at 255. "[I]f the opponent [of summary judgment] has exceeded the 'mere scintilla' [of evidence] threshold and has offered a genuine issue of material fact, then the court cannot credit the movant's version of events against the opponent, even if the quantity of the movant's evidence far outweighs that of its opponent. Big Apple BMW, Inc. v. BMW of North America, Inc., 974 F.2d 1358, 1363 (3d Cir. 1992). However, "mere allegations, bare assertions or suspicions are not sufficient

to defeat a motion for summary judgment." Felton v. Southeastern Penn. Transp. Auth., 757 F. Supp. 623, 626 (E.D. Pa. 1991) (citation omitted). "Speculation, conclusory allegations, and mere denials are insufficient to raise genuine issues of material fact." Boykins v. Lucent Technologies, Inc., 78 F. Supp. 2d 402, 407 (E.D. Pa. 2000).

III. DISCUSSION

Plaintiff brings this action against Defendants in their individual capacities and as agents/employees of the School District of Philadelphia ("School District"), as well as against the School District itself. The individual Defendants include the dean of University City High School, Mr. Williams, and school security officers Mr. Person, Mr. Taylor, Mr. Medley, and Mr. Lee. Plaintiff claims false arrest, false imprisonment, unlawful detention and malicious prosecution in violation of 42 U.S.C. §§ 1981, 1983, 1985(3) and 1986.³ Plaintiff also claims false arrest, false imprisonment, unlawful detention, malicious prosecution and infliction of emotional distress under state law. Defendants move

³Plaintiff brings his unlawful detention and false arrest claims under the Fourth and Fourteenth Amendments as well.

for summary judgment on all claims against all Defendants.⁴ The Court will consider these claims in turn.

A. 42 U.S.C. §§ 1981, 1986

In his Response to Defendants' Motion for Summary Judgment, Plaintiff withdrew his 42 U.S.C. § 1981 claims. Plaintiff does not discuss his 42 U.S.C. § 1986 claim, provides no evidence in support of that claim, and in his Response, Plaintiff states that "insofar as the Complaint alleges that the Plaintiffs' [sic] causes of action arise under USC §1981, that allegation is withdrawn, as the Plaintiffs [sic] causes of action arise under 42 USC §§ 1983 and 1985(3)." (Defs.' Mem. at 21). Accordingly, Plaintiff's 42 U.S.C. §§ 1981 and 1986 claims are dismissed.

B. 42 U.S.C. § 1983 against individual Defendants

Plaintiff brings claims pursuant to 42 U.S.C. § 1983. "To establish a claim under § 1983, a plaintiff must allege (1) a deprivation of a federally protected right, and (2) commission of the deprivation by one acting under color of state law." Lake v. Arnold, 112 F.3d 682, 689 (3d Cir. 1997).

⁴In support of their Motion, Defendants submitted the following: Philadelphia Police Investigation Report; Philadelphia Police Incident Report; Philadelphia Police Pedestrian Investigation Report; Philadelphia Court of Common Pleas Family Court Juvenile Branch Delinquent Petition; Defendants' Request for Admissions and Plaintiff's Response; Affidavit from Defendant School Police Officer Clifford Person; School District of Philadelphia Incident Follow-up Report; and hospital records for Felix Taylor.

In order to succeed on his claims for false arrest, false imprisonment, unlawful detention and malicious prosecution, Plaintiff must establish that Defendants lacked probable cause for Plaintiff's arrest. See Schertz v. Waupaca County, 875 F.2d 578, 582, 636 (7th Cir. 1989); Hilfirty v. Shipman, 91 F.3d 573, 579 (3d Cir. 1996). "[T]he proper inquiry in a section 1983 claim based on false arrest . . . is not whether the person arrested in fact committed the offense but whether the arresting officers had probable cause to believe the person arrested had committed the offense." Groman v. Township of Manalapan, 47 F.3d 628, 634 (3d Cir. 1995) (citing Dowling v. City of Philadelphia, 855 F.2d 136, 141 (3d Cir. 1988)).

Probable cause exists for an arrest when, at the time of the arrest, the facts and circumstances within the arresting officer's knowledge are "sufficient to warrant a prudent man in believing that the suspect had committed or was committing an offense." Sharrar v. Felsing, 128 F.3d 819, 817 (3d Cir. 1997). Probable cause need only exist as to any offense that could be charged under the circumstances. Graham v. Conner, 490 U.S. 386, 435 n.6 (1989). In determining whether probable cause exists, the court should assess whether the objective facts available to the arresting officers at the time of the arrest were sufficient to justify a reasonable belief that an offense had been committed. Sharrar, 128 F.3d at 817. Courts apply a common sense approach

based on the totality of the circumstances. Paff v. Kaltenbach, 204 F.3d 425, 436 (3d Cir. 2000).

Defendants argue that probable cause existed. They provide an affidavit by Defendant school security officer Clifford Person who states that Plaintiff admitted to him when Mr. Person arrived at the scene that Plaintiff "preemptively punched Felix [Taylor] in the face several times." (Defs.' Ex. C at 2). Plaintiff provides no evidence to dispute this. In fact, Plaintiff provides no evidence whatsoever.⁵ Moreover, in his Complaint and Response to the Motion for Summary Judgment, Plaintiff does not deny that he preemptively struck Felix Taylor. Because Plaintiff provides no evidence at all, he certainly provides no evidence that probable cause did not exist.

Plaintiff further claims that he acted in self-defense to Felix Taylor's threats. Once again, however, Plaintiff provides no evidence to support his claims. Moreover, "the possible existence of a defense to the offense does not prevent a finding of probable cause." Sudderth v. City & County of San Francisco, No.00-2337 MMC, 2001 U.S. Dist. LEXIS 9467, at *18 (N.D. Ca. June 28, 2001) ("that [the plaintiff] was defending herself did not conclusively establish a justification for the battery [she committed], especially in light of her admission that she 'pushed' [the

⁵Plaintiff has not provided any affidavits or exhibits. Plaintiff's only submissions include his Complaint and his Response, which have no exhibits attached.

defendant] at the onset of the altercation."). See also Moscoso v. City of New York, 92 F. Supp. 2d 310, 314 (S.D.N.Y. 2000) (holding that an officer is under no duty, once probable cause is found to exist, to credit the plaintiff's protestations of self-defense). Cf. Hennegan v. City of Philadelphia & Police Officer Alleyne, Civil Action No.94-7826, 1995 U.S. Dist. LEXIS 18375, at *3 (E.D. Pa. Dec. 6, 1995) (finding that plaintiff's own allegations in an excessive force claim establish that "he engaged in a fistfight with his brother in the presence of police officers, so it cannot be said that probable cause for arrest was entirely lacking; and the doctrine of qualified immunity shields the police from liability in damages under such circumstances, even if it should later appear that plaintiff was acting in self-defense.").

Although the existence of probable cause is usually a jury question, "where no genuine issue as to any material fact exists and where credibility conflicts are absent, summary judgment may be appropriate." Sharrar v. Felsing, 128 F.3d 810, 817-18 (3d Cir. 1997) (quoting Deary v. Three Un-Named Police Officers, 746 F.2d 185, 192 (3d Cir. 1984)). Here, summary judgment is appropriate because the evidence is entirely lacking to show that probable cause did not exist. Because Plaintiff cannot establish that there is a genuine issue of material fact on the key element of probable cause, the Court grants Defendants' Motion as to the

individual Defendants on the false arrest, unlawful detention⁶, false imprisonment and malicious prosecution claims.⁷ Schertz v. Waupaca County, 875 F.2d 578, 582 (7th Cir. 1989) ("The existence of probable cause for arrest is an absolute bar to a Section 1983 claim for unlawful arrest, false imprisonment, or malicious prosecution."). See also Hilfirty, 91 F.3d at 579 ("In order to state a prima facie case for a section 1983 claim of malicious prosecution, the plaintiff must establish the elements of the common law tort as it has developed over time. In Pennsylvania, like most jurisdictions, a party bringing a malicious prosecution claim must demonstrate that . . . the proceeding was initiated without probable cause."); Groman v. Township of Manalapan, 47 F.3d 628, 636 (3d Cir. 1995) ("An arrest based on probable cause [can] not become the source of a claim for false imprisonment.") (citations omitted).

⁶"False imprisonment" and "unlawful detention" are used interchangeably in the United States Court of Appeals for the Third Circuit. See Suarez v. Dehais, Civil Action No.95-3791, 1997 U.S. Dist. LEXIS 10315, at *14-15 (D.N.J. June 11, 1997); Pagano v. Hadley, 553 F. Supp. 171, 175 (D. Del. 1982).

⁷To the extent that Plaintiff's Complaint can be read to allege due process violations under the Fourteenth Amendment, such claims also fail because Plaintiff provides no evidence that Defendants' conduct "shocked the conscience" or showed "deliberate indifference." See, e.g., County of Sacramento v. Lewis, 523 U.S. 833 (1998).

C. 42 U.S.C. § 1985(3)

Plaintiff also brings his claims for false arrest, unlawful detention, and malicious prosecution under 42 U.S.C. § 1985(3). However, Plaintiff's § 1985(3) claims must fail, because "the absence of an underlying § 1983 deprivation of rights precludes a § 1985 conspiracy claim predicated on the same allegations." Sudderth, 2001 U.S. Dist. LEXIS 9467, at *20 (citing Zimmerman v. City of San Francisco, No.C 93-4045 MJJ, 2000 U.S. Dist. LEXIS 10866, at *32-33 (N.D. Cal. July 27, 2000)). Moreover, "in order to assert a viable conspiracy claim [pursuant to 42 U.S.C. § 1985], a plaintiff must allege that two or more persons acted in concert in an effort to deprive him or her of a constitutionally protected right." Burden v. Wilkes-Barre Area School District, 16 F. Supp. 2d 569, 573 (M.D. Pa. 1998). "[A] governmental entity and its agents cannot, as a matter of law, conspire because they are considered one and, therefore, the 'two or more persons' requirement cannot be met." Id. (citing Hull v. Cuyahoga Valley Bd. of Educ., 926 F.2d 505, 509-10 (6th Cir. 1991)). Accordingly, Defendants' Motion for Summary Judgment on the 42 U.S.C. § 1985(3) claims against the individual Defendants is granted.⁸

⁸Defendants also argue that this suit is barred by the qualified immunity defense. Since the Court is granting summary judgment based on a failure to show a lack of probable cause, the Court need not address qualified immunity.

D. Federal claims against the School District

Plaintiff also brings his federal claims against the School District itself. “[I]n certain instances, a municipality can be held independently liable for violating a plaintiff’s constitutional rights, even if there is no individual liability on the part of the officer.”⁹ Estate of Burke v. Mahanoy City, 40 F. Supp. 2d 274, 285 (E.D. Pa. 1999), aff’d 213 F.3d 628 (3d Cir. 2000) (citing Fagan v. City of Vineland, 22 F.3d 1283 (en banc), aff’d in part, 22 F.3d 1296 (3d Cir. 1994)). However, “[m]unicipal liability attaches only when the execution of a government’s policy or custom supports a violation of constitutional rights.” Id. at 286 (citing Monell v. Department of Soc. Servs., 436 U.S. 658, 691-95 (1978); Bielevicz v. Dubinon, 915 F.2d 845, 850 (3d Cir. 1990)). Plaintiff provides no evidence showing a violation of Plaintiff’s constitutional rights as the result of any unconstitutional policy or practice or a failure to train on the part of the School District. Accordingly, Defendants’ Motion for Summary Judgment on all claims against the School District is granted.

E. State law claims

Plaintiff also claims false arrest, false imprisonment, unlawful detention, malicious prosecution and infliction of

⁹The School District is a municipality. See 53 Pa. Cons. Stat. Ann. § 7101 (defining “municipality” as “any county, city, borough, incorporated town, township, school district, county institution district, and a body politic and corporate created as a Municipal Authority pursuant to law.”).

emotional distress under state law. Because Plaintiff's federal claims are dismissed, Plaintiff's pendent state law claims are dismissed pursuant to 28 U.S.C.A. § 1367(c)(3).¹⁰ See Regalbuto v. City of Phila., 937 F. Supp. 374, 380 (E.D. Pa. 1995), cert. denied, 519 U.S. 982 (1996) (citing United Mine Workers of America v. Gibbs, 383 U.S. 715 (1966) ("If the federal claims are dismissed before trial, even though not insubstantial in a jurisdictional sense, the state claims should be dismissed as well.")).

F. Remaining claims

Accordingly, Plaintiff's remaining claims for damages, punitive damages, and attorney's fees are also dismissed.

IV. CONCLUSION

For the above-stated reasons, the Court grants Defendant's Motion for Summary Judgment for all claims in the Complaint and denies Defendant's Motion for Rule 11 sanctions. An appropriate Order follows.

¹⁰Defendants argue that the state law claims are barred by statutory immunity. Because the Court is dismissing the pendent state law claims pursuant to 28 U.S.C.A. § 1367(c)(3), it need not address statutory immunity.

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O R D E R

AND NOW, this 17th day of July, 2002, upon consideration of Defendants' Motion pursuant to Federal Rules of Civil Procedure 11, 12(b)(6), and 56 (Docket No. 9) and Plaintiff's response thereto (Docket No. 12), **IT IS HEREBY ORDERED** that said Motion for Summary Judgment is **GRANTED** and the Motion for Rule 11 sanctions is **DENIED**. The claims brought pursuant to 42 U.S.C. § 1981 are **WITHDRAWN**. **JUDGMENT** is entered in favor of all Defendants and against Plaintiff on all remaining claims. This case shall be **CLOSED** for statistical purposes.

BY THE COURT:

John R. Padova, J.