

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

DOUGLAS SEVILLE : CIVIL ACTION  
 :  
 v. :  
 :  
 BENJAMIN MARTINEZ, et al. : NO. 04-5767

MEMORANDUM AND ORDER

McLaughlin, J.

August 3, 2006

The only claims remaining in this lawsuit are against Bensalem Township Police Officer Dennis Hart, in connection with his arrest of the plaintiff on October 17, 2002. The Court set out the procedural history of this case, which was originally filed in the Western District of Pennsylvania, in its memorandum dated February 4, 2005, and incorporates that discussion herein. In his second amended complaint, the plaintiff alleges that the defendant wrongfully arrested him and destroyed his car tire, in violation of the Fourth and Fourteenth Amendments, and state law. Both the plaintiff and the defendant have filed motions for summary judgment. The Court will grant the defendant's motion for summary judgment and deny the plaintiff's motion.<sup>1</sup>

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<sup>1</sup> The Court will overrule the plaintiff's untimeliness objection to the defendant's motion. The Court's January 13, 2006 Scheduling Order permitted the parties to take each other's depositions in February 2006, and directed the parties to file any dispositive motions two weeks after receiving transcripts of those depositions. The plaintiff was not able to depose the defendant in February 2006, but did not inform the Court that he no longer wanted to depose the defendant until the April 18, 2006

For the purposes of these motions, the Court will accept the plaintiff's version of the facts surrounding his arrest on October 17, 2002, insofar as he has knowledge of them. At around 10:00 a.m., the plaintiff left the Lincoln Motel in Trevoise, Pennsylvania and went to his car. He noticed that one of his car tires was ripped and torn. The plaintiff and his wife went back into the motel to get the manager to view the vandalism. The plaintiff then came out to fix the car.

The defendant appeared, wiping a black substance off his hands. He asked the plaintiff for his driver's license, registration, and insurance card. The plaintiff asked the defendant why he was asking for these documents, as he had not committed any crime. The defendant refused to answer, and asked for the documents several more times. After the plaintiff gave them to him, the defendant went to his police vehicle. He returned a few minutes later and gave the documents back. He told the plaintiff, "you're all right," then left.

The plaintiff went back into the motel to make sure that the clerk was writing up a report on the vandalism. When he

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telephone conference on the record. During that conference, the defendant requested, and the Court granted, an extension of time to file a cross motion for summary judgment, on the ground that the defendant needed to obtain certain additional documents. When a party requests an enlargement of time before the expiration of the original deadline, a court may, with or without motion, order the period enlarged for cause shown. Fed. R. Civ. P. 6(b)(1).

came back outside approximately twenty minutes later, he saw three police cars and eight police officers with their weapons drawn, telling him to get on the ground. The defendant appeared and said that he had a warrant for the plaintiff's arrest. The plaintiff asked him for what he was being arrested; the defendant responded that he had a parole violation. The plaintiff also asked the defendant to recite various facts from the warrant. The defendant did not do so. Nor did he ever show the plaintiff any documents or paperwork. The defendant handcuffed the plaintiff, placed him in a police vehicle, and transported him to the Bensalem Police Department.

The plaintiff stayed in a cell at the Bensalem Police Department for several hours, until parole agents from the Philadelphia Parole Board arrived and took him to the police department at Eighth and Race Streets in Philadelphia. The plaintiff was processed, then sent to Graterford Prison on a parole violation. It is the plaintiff's view that his parole ended in the year 1993, and that he was not on parole for anything on October 17, 2002.

In his affidavit submitted with his motion for summary judgment, the defendant states that on October 17, 2002, he was on routine patrol at the parking lot of the Lincoln Motel in Trevoise, Pennsylvania. This area has a high number of stolen vehicles. He ran the tags on several of the vehicles in the lot,

including the plaintiff's black Dodge Shadow, to make sure that they were not stolen. When a tag is run through the Department of Motor Vehicles, it is simultaneously run through the Commonwealth Law Enforcement Assistance Network ("CLEAN") system. The CLEAN system is used by the Commonwealth's criminal justice agencies to access driver's license and motor vehicle information, state criminal history information maintained in the Pennsylvania State Police Repository, and other services. The CLEAN system sent back a report that the owner of the black Dodge Shadow, Douglas Seville, was wanted by the Pennsylvania State Parole in Philadelphia. No evidence on the record contradicts the defendant's affidavit that he received information that the plaintiff was wanted on a parole violation.

The constitutionality of the plaintiff's arrest on October 17, 2002 is governed by the Fourth Amendment, not the Fourteenth Amendment. Berg v. County of Allegheny, 219 F.3d 261, 269 (3d Cir. 2000) ("[T]he constitutionality of arrests by state officials is governed by the Fourth Amendment rather than due process analysis."). Under the Fourth Amendment, an officer may only arrest a person upon probable cause. Id.

Here, the defendant arrested the plaintiff in reliance on the information he received from the CLEAN system that there was a parole warrant on the plaintiff. A warrant that is erroneously issued cannot provide probable cause for arrest. Id.

at 269-270. The defendant has not presented the Court with the actual warrant. But no evidence on the record suggests that the parole warrant or the information sent by the CLEAN system were erroneous.<sup>2</sup> After the plaintiff was arrested, the Board of Probation and Parole issued a warrant to "commit and detain" the plaintiff, and transported him to Graterford Prison.

Even if the parole warrant and/or the information sent by the CLEAN system were erroneous, the defendant is entitled to qualified immunity for the arrest because he reasonably relied on the information sent by the CLEAN system. See id. at 273 ("[W]e have generally extended immunity to an officer who makes an arrest based on an objectively reasonable belief that there is a valid warrant."); Rogers v. Powell, 120 F.3d 446, 456 (3d Cir. 1997) (officer who relied on another officer's inaccurate report that there was a warrant for the plaintiff's arrest was immune from suit). The plaintiff has not presented any evidence showing why it was objectively unreasonable for the defendant to rely on the information he received from the CLEAN system.

Finally, the plaintiff's allegation that the defendant vandalized his car tire does not state a claim for a substantive or a procedural due process violation under the Fourteenth

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<sup>2</sup> During his deposition, the plaintiff refused to answer many questions relating to his incarceration and this lawsuit. He did state that the arrest was based on a parole violation but refused to answer any further questions with regard to the violation or his sentence.

Amendment. The Court finds that the plaintiff's property interest in his car tire is not a "fundamental" interest entitled to substantive due process protection. The United States Court of Appeals for the Third Circuit has never extended substantive due process review beyond cases involving real property.

Nicholas v. Pennsylvania State University, 227 F.3d 133, 141. (3d Cir. 2000).

Although the Court is not certain that the plaintiff has provided sufficient evidence to establish that the defendant did vandalize his car tire, the Court finds that such vandalism, if it occurred, would have been unauthorized. Unauthorized deprivations of property by a state employee - whether intentional or negligent - do not violate procedural due process if the state provides a meaningful post-deprivation remedy for the loss. Hudson v. Palmer, 468 U.S. 517, 533 (1984); Brown v. Muhlenberg Township, 269 F.3d 205, 213-214 (3d Cir. 2001) (no procedural due process violation where plaintiffs could sue officer for conversion under Pennsylvania law for shooting their dog). Here, the plaintiff has not shown why state law does not provide an adequate remedy for his alleged deprivation.

Whereas the plaintiff's constitutional claims under 28 U.S.C. § 1983 are the bases for the Court's subject matter jurisdiction, the Court declines to exercise pendent jurisdiction over the plaintiff's state law claims.

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ORDER

AND NOW, this 3rd day of August, 2006, upon consideration of the plaintiff's motion for summary judgment (Docket No. 42), the defendant's response, the defendant's motion for summary judgment (Docket No. 48), and the plaintiff's response and objection thereto, IT IS HEREBY ORDERED that the plaintiff's motion is DENIED and that the defendant's motion is GRANTED for the reasons stated in the memorandum of today's date. Judgment is hereby entered for the defendant, Officer Dennis Hart, and against the plaintiff.

Whereas there are no other defendants remaining in this case, this case is CLOSED.

BY THE COURT:

/s/ Mary A. McLaughlin  
MARY A. McLAUGHLIN, J.