

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

GARY C. HOFFA,	:	CIVIL ACTION
	:	
Plaintiff,	:	NO. 97-6148
	:	
v.	:	
	:	
TOWNSHIP OF COLEBROOKDALE,	:	
LAWRENCE MAUGER, and	:	
CHRISTOPHER SCHOTT,	:	
	:	
Defendants.	:	

**MEMORANDUM**

BUCKWALTER, J.

January 15, 1999

Plaintiff Gary C. Hoffa filed this action, alleging that law enforcement officers of the Township of Colebrookdale unlawfully arrested him after stopping his vehicle for a speeding violation, and then used excessive force while he was in their custody. Presently before the Court is Defendants' Motion for Summary Judgment. Although Defendants' motion is DENIED due to a threshold issue of probable cause, the Court will address the other issues briefed by the parties in hopes of being of some assistance at this stage in the proceedings.

**I. BACKGROUND**

On September 12, 1996, at approximately 12:20 p.m., Plaintiff and his father, who was sitting in the passenger seat, were driving along North Reading Avenue near Boyertown, Pennsylvania. While driving past a parking lot, Plaintiff observed Defendant Christopher Schott,

a police sergeant employed by Defendant Township of Colebrookdale, sitting in his police cruiser. After passing the cruiser, Plaintiff observed Sergeant Schott pull out from his parked position and start following the vehicle. Sensing that something might be amiss, Plaintiff pulled his vehicle over to the side of the roadway even before Sergeant Schott turned on his lights or sirens.

Sergeant Schott pulled his cruiser up to the rear of Plaintiff's automobile and radioed the dispatcher to report the stop. He then approached the driver's side of Plaintiff's car, advised Plaintiff that he had been speeding, and requested his driver's license. Plaintiff readily complied. Sergeant Schott returned to the cruiser, called the dispatcher, and provided Plaintiff's first and last name, birth date, city of residence, vehicle make and model, and the vehicle's license number. He requested that the dispatcher conduct a computer search for Plaintiff's driver's information, the ownership of Plaintiff's vehicle, and any outstanding arrest warrants for Plaintiff. Although Plaintiff's driver's license indicated that his middle name was Curtis and gave the complete street address of Plaintiff's residence, Sergeant Schott omitted the street address and any reference to a middle name or initial.

At approximately 12:35 p.m., the dispatcher informed Sergeant Schott that there indeed was an outstanding warrant for Plaintiff issued by the Berks County office of domestic relations and that the district attorney's office wanted him placed in custody. At around the same time, Defendant Lawrence Mauger, Colebrookdale's police chief, arrived on the scene in his cruiser.

Sergeant Schott then returned to Plaintiff's vehicle and requested that Plaintiff step out of the car. Plaintiff again fully cooperated. He instructed Plaintiff to go to the rear of his

vehicle, empty out his pockets onto the trunk lid, and place his hands on the trunk. Sergeant Schott then placed handcuffs on Plaintiff behind his back, which is standard procedure prior to transporting those in custody, and informed Plaintiff that a warrant had been issued for his arrest.

Plaintiff was placed in the back seat of Sergeant Schott's cruiser for the two-mile ride to the Colebrookdale Municipal Building. Chief Mauger drove separately. During the three-minute trip, Plaintiff complained to Sergeant Schott that his wrists were hurting due to the tightness of the handcuffs, as a result of which Plaintiff claims that his hands turned purple. Sergeant Schott, however, told Plaintiff that the handcuffs were already as loose as they could be. Plaintiff also informed Sergeant Schott that he had had back surgery, which made it uncomfortable for him to sit in the rear of the vehicle with his hands cuffed behind his back. Being over six feet tall, Plaintiff had difficulty fitting into the cruiser, but conceded that there was nothing the officer could do.

At the station, Plaintiff was placed in an interview room and handcuffed by one of his wrists to a bench. Plaintiff's father, who arrived separately, spent some time alone with Plaintiff and discussed the possibility that there was some kind of mistaken identity with a "Gary L. Hoffa." Although this was the first time the two of them had broached this topic, Plaintiff had repeatedly voiced this concern to Sergeant Schott after being placed into custody. Nonetheless, neither Plaintiff nor his father told the police about the possible mistaken identity while they were at the station.

Plaintiff remained in custody for approximately one hour, at which time his legs were shackled and handcuffed around the waist for transport to Berks County by Detective Fister. En route in Detective Fister's car, the two engaged in conversation concerning the mistaken

identity and, after a phone call confirming the mistake, Plaintiff was released from his restraints and driven to his residence. Plaintiff arrived there at approximately 2:20 p.m.

Plaintiff subsequently filed the instant complaint, asserting a 42 U.S.C. § 1983 violation of his Fourth Amendment rights and claims for false arrest and imprisonment, assault and battery, negligence, and gross negligence against Sergeant Schott and Chief Mauger.

Additionally, he alleged a failure to train or supervise by Colebrookdale Township with respect to the verification of warrants prior to arrest.

## **II. DISCUSSION**

### **A. Standard of Review**

Summary judgment is appropriate “if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” Fed. R. Civ. P. 56(c). The moving party has the burden of demonstrating the absence of any genuine issue of material fact. See Celotex Corp. v. Catrett, 477 U.S. 317, 323 (1986). A factual dispute is “material” if it might affect the outcome of the case under the governing substantive law. See Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986). Additionally, an issue is “genuine” “if the evidence is such that a reasonable jury could return a verdict for the nonmoving party.” Id.

If the moving party establishes the absence of a genuine issue of material fact, the burden shifts to the non-moving party to “set forth specific facts showing that there is a genuine issue for trial.” Fed. R. Civ. P. 56(e). In doing so, the non-moving party must “do more than simply show that there is some metaphysical doubt as to the material facts.” Matsushita Elec.

Indus. Co. v. Zenith Radio Corp., 475 U.S. 574, 586 (1986). If the evidence of the non-moving party is “merely colorable,” or is “not significantly probative,” summary judgment may be granted. Anderson, 477 U.S. at 249-50.

As law enforcement officials engaged in discretionary functions, Defendants are also qualifiedly immune from suits brought against them for damages “insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known.” Harlow v. Fitzgerald, 457 U.S. 800, 818 (1982). “Where a defendant asserts a qualified immunity defense in a motion for summary judgment, the plaintiff bears the initial burden of showing that the defendants’ conduct violated some clearly established statutory or constitutional right.” Sherwood v. Mulvihill, 113 F.3d 396, 399 (3d Cir. 1997). If the plaintiff meets this burden, the defendant must “then demonstrate that no genuine issue of material fact remains as to the ‘objective reasonableness’ of the defendant’s belief in the lawfulness of his actions.” Id. Thus, the Court begins with the predicate question of whether Plaintiffs’ allegations are sufficient to establish “a violation of a constitutional right at all.” Siegert v. Gilley, 500 U.S. 226, 232 (1991).

B. Fourth Amendment Claims

1. Whether There Was Probable Cause To Stop

The threshold Fourth Amendment issue confronting the Court is not the propriety of the arrest but rather, as Plaintiff correctly identifies, whether Sergeant Schott permissibly stopped Plaintiff’s automobile for a traffic violation. “It must be recognized that whenever a police officer accosts an individual and restrains his freedom to walk away, he has ‘seized’ that person.” Terry v. Ohio, 392 U.S. 1, 16 (1968). Thus, the temporary detention of individuals

during the stop of an automobile by the police, even if only for a brief period and for a limited purpose, constitutes a seizure within the meaning of the Fourth Amendment. See Delaware v. Prouse, 440 U.S. 648, 653 (1979). For such a detention to pass constitutional muster, the decision to stop the automobile must be reasonable under the circumstances. “As a general matter, the decision to stop an automobile is reasonable where the police have probable cause to believe that a traffic violation has occurred.” Whren v. United States, 517 U.S. 806, 810 (1996).

The contention is that Plaintiff was pulled over by Sergeant Schott for speeding. However, the only basis in the record for the conclusion that probable cause existed for the stop is the question, “Why did you pull Mr. Hoffa over?,” to which Sergeant Schott succinctly answered, “Speeding.” Schott Dep. at 18 (attached as Exhibit B to Defs.’ Appendix). Sergeant Schott testified that he was parked that day “[p]erforming a speed detail,” id. (which this Court infers to mean that he was there to ticket violations of the township speed limit), and additionally described his extensive experience as a law enforcement officer and the rigorous training he has undergone, see id. at 5-12. However, none of Schott’s testimony provides a basis to support his conclusion that probable cause existed for the stop. All the record presents is Sergeant Schott’s naked claim that Plaintiff was speeding. Both Hoffas deny that plaintiff was speeding and no speeding ticket was issued.

Therefore, on this record, the Court is unable to find, as a matter of law, that there was probable cause to stop Plaintiff’s vehicle for the alleged traffic violation. Whether probable cause existed will be left to the trier of fact. The Court’s determination of this threshold issue necessitates a complete denial of Defendants’ motion, obviating any further ruling on Plaintiff’s

remaining claims. Nonetheless, the Court feels that it would be useful to the parties at this juncture to render a preliminary opinion on the other allegations.

2. Whether There Was Probable Cause To Arrest

Assuming that the automobile stop was supported by probable cause, the Court would then be presented with the issue of whether there was probable cause to place Plaintiff into custody. When such a seizure has occurred, the Fourth Amendment imposes a general requirement of reasonableness, and a court must determine whether the facts and circumstances encompassing the decision to take Plaintiff into custody were “sufficient to warrant a prudent man in believing that the [suspect] had committed or was committing an offense.” Gerstein v. Pugh, 420 U.S. 103, 111 (1975) (quoting Beck v. Ohio, 379 U.S. 89, 91 (1964)).

Sergeant Schott gave the dispatcher Plaintiff’s first and last name, date of birth, and city of residence. Relying almost entirely on the dispatcher’s confirmation, the use of these identifying markers under the circumstances of a routine traffic stop were sufficient to provide Sergeant Schott with a reasonable basis upon which to conclude that probable cause existed to place Plaintiff into custody. Perhaps the use of Plaintiff’s complete street address and/or the middle name or initial might have avoided the ensuing arrest. However, this Court must judge “[t]he constitutionality of [Sergeant Schott’s] conduct in light of the information available to [him] at the time [he] acted.” Maryland v. Garrison, 480 U.S. 79, 85 (1987). In that light, Sergeant Schott’s conduct comported with an objective standard of reasonableness under the circumstances. Sergeant Schott’s determination of probable cause will not be overturned simply because it later turned out that the arresting officer was mistaken as to Plaintiff’s identity.

Accordingly, as no Fourth Amendment violation arises on this record from placing Plaintiff into custody, both officers would be qualifiedly immune and entitled to judgment in their favor on this claim. In addition, this finding of probable cause immunizes Colebrookdale Township from liability for its alleged failure to train or supervise the officers as it cannot be liable for lawful conduct. Thus, the township would also be entitled to judgment in its favor.

3. Whether The Force Used Was Excessive

The Court would then turn to Plaintiff's excessive force allegations. Whether the force used to effect a seizure is excessive is once again mandated by an objective inquiry: "the question is whether the officers' actions are 'objectively reasonable' in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation." Graham v. Connor, 490 U.S. 386, 397 (1989). "Not every push or shove, even if it may later seem unnecessary in the peace of a judge's chambers,' violates the Fourth Amendment." Id. at 396 (quoting Johnson v. Glick, 481 F.2d 1028, 1033 (2d Cir.) (Friendly, J.), cert. denied sub nom. Employee-Officer John, #1765 Badge Number v. Johnson, 414 U.S. 1033 (1973)). In particular, a custodial arrest involves "danger to an officer" because of the "extended exposure which follows the taking of a suspect into custody and transporting him to the police station." United States v. Robinson, 414 U.S. 218, 234-35 (1973).

As elaborated in Plaintiff's brief, his allegations regarding excessive force essentially involve the tightness of the handcuffs resulting in a discoloration of his hands and the uncomfortableness of the ride to the station due to his previous back surgery. While both accounts stem from deposition testimony that remains unrebutted (let alone disputed) by

Defendants, the Court would find that the officers' actions are objectively reasonable in light of the facts and circumstances confronting them.

Although Sergeant Schott was accompanied at the scene by Chief Mauger, they drove separately to the station. Thus, Sergeant Schott was alone in his cruiser with Plaintiff while he drove to the station. His fear for his own safety reasonably guided his decision to handcuff Plaintiff, irrespective of Plaintiff's apparent cooperation and notwithstanding that this is standard procedure prior to transporting those in custody. Sergeant Schott also told Plaintiff that the handcuffs were as loose as they could be, rendering any accommodation impossible. Plaintiff's large size and back injury contributed to the uncomfortableness of the ride, but Plaintiff has conceded that there was nothing Sergeant Schott could do about his discomfort and, in any event, the ride only lasted a few minutes.

Accordingly, on this record, no Fourth Amendment excessive force violation arises from the treatment of Plaintiff while he was detained. Both officers would be qualifiedly immune and entitled to judgment in their favor on this claim.

C. The State Law Claims

Essentially for the reasons articulated in supra Sections B.2 and B.3, the officers' conduct towards Plaintiff would be privileged and judgment would be entered in favor of both officers on Plaintiff's state law claims. Moreover, Colebrookdale Township would be immune from liability for Plaintiff's common law claims pursuant to 42 Pa. Cons. Stat. Ann. § 8541 (West 1998).

### **III. CONCLUSION**

Defendants' motion is DENIED because the record does not, as a matter of law, support a finding of probable cause for the initial stop of Plaintiff's vehicle on the alleged speeding violation.

An appropriate order follows.

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v.	:	
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LAWRENCE MAUGER, and	:	
CHRISTOPHER SCHOTT,	:	
	:	
Defendants.	:	

**ORDER**

AND NOW, this 15th day of January 1999, upon consideration of Defendants' Motion for Summary Judgment (Docket Nos. 9 and 10) and Plaintiff's response thereto (Docket No. 13), it is hereby ORDERED that Defendants' motion is DENIED, in accordance with the accompanying memorandum.

BY THE COURT:

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RONALD L. BUCKWALTER, J.