

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

MARCIA COLES : CIVIL ACTION
 :
 v. :
 :
 :
 CONSTABLE KENNETH HOPKINS, and :
 OFFICER ALAN HALDEMAN : NO. 98-5465

MEMORANDUM AND ORDER

HUTTON, J.

DECEMBER 20, 1999

Presently before the Court are Defendant Kenneth Hopton's ("Hopton")¹ Motion for Summary Judgment (Docket No. 17), Plaintiff Marcia Cole's ("Plaintiff" or "Coles") response thereto (Docket No. 18), Defendant Alan Haldeman's ("Haldeman") Motion for Summary Judgment (Docket No. 21), and Plaintiff's response thereto (Docket No. 26). For the reasons stated hereafter, each Motion is DENIED.

I. BACKGROUND

In considering all the facts and reasonable inferences drawn therefrom in the light most favorable to the non-moving party, the facts pertinent to the instant lawsuit are as follows. Plaintiff, an adult African-American female, resides in Coatesville, Chester County, Pennsylvania. (See Am. Compl. at ¶ 7). On November 7, 1997, Plaintiff was arrested by Hopton, a constable for Chester County, on the basis of an alleged failure to

¹/ The instant lawsuit's caption states in error that Kenneth "Hopkins" is a defendant. Defendant's actual name is Kenneth Hopton.

pay outstanding parking tickets.\² (See Am. Compl. at ¶ 10). The arrest was executed pursuant to an arrest warrant (the "First Warrant"). Hopton brought Plaintiff before District Justice Robert Gill (the "District Justice"). (See Am. Compl. at ¶ 10). While Plaintiff never received the tickets for which she was arrested, she paid the fines assessed on said tickets in order to avoid incarceration. (See Am. Compl. at ¶ 11). During the time she was in front of the District Justice, Haldeman, a police officer in the Coatesville, Pennsylvania Police department, discovered a fugitive warrant for a "Marcela Cole." (See Am. Compl. at ¶ 12). The record before the court is unclear in two respects as to what transpired next: (1) the particular conduct engaged in by each defendant; and (2) the sequence of the events that are material to this lawsuit.\³ For the purpose of this Memorandum, the Court

²/ Plaintiff's Amended Complaint states that "[o]n or about June 1997 Marcia Coles was arrested by defendant Kenneth Hopkins" (Am. Compl. at ¶ 10). Hopton's Answer to Plaintiff's Amended Complaint admits as true Plaintiff's allegation. The Court notes, however, that the other documents, including Plaintiff's Memorandum in Opposition to Defendant Hopton's Motion for Summary Judgment (Docket No. 18), indicate the date of arrest was November 7, 1997

³/ Plaintiff's Amended Complaint and her other pleadings when considered individually and together are neither a model of clarity nor the archetype of consistency. For example, paragraph 16 of the Amended Complaint states that Defendant Hopkins [defendant's real name is Hopton] wrote an affidavit of probable cause and criminal complaint" (Am. Compl. at ¶ 16 (emphasis added)). Her very next paragraph states that Defendant "Haldeman thus knew at the time of writing his criminal complaint and affidavit of probable cause" (Am. Compl. at ¶ 17 (emphases added)). Thus, after reading Plaintiff's Amended Complaint, the Court is uncertain whether Hopton or Haldeman wrote the affidavit of probable cause and criminal complaint. Haldeman's Answer to Plaintiff's Amended Complaint admits that he was the author of said affidavit and criminal complaint while Hopton's Answer denies Plaintiff's allegation of his authorship of said documents. The Court specifically notes this inconsistency as authorship of said documents has important implications under
(continued...)

recites the facts as it understands them from Plaintiff's Amended Complaint and her other filings.

Ultimately, Plaintiff was arrested a second time (the "Second Arrest") pursuant to the Marcela Cole fugitive warrant (the "Second Warrant") and charged with unlawful taking and receiving stolen property. (See Am. Compl. at ¶ 13). Both defendants participated to an undetermined extent in the Second Arrest. (See Pl.'s Mem. in Opposition to Def. Hopton's Motion for Simm. J. at 2). The Second Arrest was effected pursuant to the Second Warrant and the information contained therein, despite the fact that Plaintiff's name is not Marcela Cole and Plaintiff's physical description differs in several significant respects from that of Marcela Cole. (See Am. Compl. at ¶ 13). Plaintiff explained to Hopton that she is not Marcela Cole, the person named in the Second Warrant. (See Am. Compl. at ¶ 14). Hopton told Plaintiff that he believed that she was not Marcela Cole but that she had to placed

^{3/} (...continued)
the legal theories stated by Plaintiff.

The Court notes additional errors in Plaintiff's pleadings as examples of counsel's lack of attention to detail. For example, the Amended Complaint states that the City of Coatesville and the County of Chester are no longer defendants in the lawsuit. (Am. Compl. at ¶ 1). Nevertheless, the Amended Complaint continues to seek damages against Chester County; the Amended Complaint states that "[P]laintiff also demands judgment against Chester County" (Am. Compl. at 5). Plaintiff's prayer for relief only seeks damages for unreasonable search and seizure although the Amended Complaint states damages are also sought for false imprisonment. Moreover, Plaintiff alternately uses "Marcela Cole" and "Marcy Cole" to identify the person named in the second warrant but provides no explanation as to whether both names are included on the face of the warrant. Finally, Plaintiff's Memorandum in Opposition to Defendant Hopton's Motion for Summary Judgment cites no legal authority to support her causes of action and is therefore deficient under Local Rule 7.1(c). E.D. Pa. R. Civ. P. 7.1(c).

under arrest nevertheless and that she would need an attorney before the charges could be dismissed. (See Am. Compl. at ¶ 15).

After her arrest under the Second Warrant, Hopton or Haldeman wrote an affidavit of probable cause and criminal complaint, including therein Plaintiff's name, date of birth, and social security number. (See Am. Compl. at ¶¶ 16-17). Hopton's Motion for Summary Judgment states that he did not believe that Plaintiff was the person identified in the Second Warrant and advised the District Justice of this belief. (See Def. Hopton's Motion to for Summary Judgment at 1). The District Justice thereafter set Plaintiff's bail at \$2,500 although he, Haldeman, and Hopton knew that Plaintiff was not the person identified in the Second Warrant. (See Am. Compl. at ¶ 16). Hopton's Motion for Summary Judgment states that he did not believe that Plaintiff was the person identified in the Second Warrant and advised the District Justice of this belief. (See Def. Hopton's Motion to for Summary Judgment at 1). All charges against Plaintiff were eventually dismissed. (See Am. Compl. at ¶ 22).

Plaintiff's first Complaint was filed on October 15, 1998. She filed an Amended Complaint on October 30, 1998. The Amended Complaint dropped as defendants the City of Coatesville and the County of Chester,⁴ thereby leaving only Hopton and Haldeman

⁴/ As stated previously, Plaintiff's Amended Complaint purports to drop Chester County as a defendant, (see Am. Compl at ¶ 1), while also seeking damages against the Chester County. (See Am. Compl at 5),

as parties to this lawsuit. The Amended Complaint, although it does not contain separate counts, purports to state claims against Hopton and Haldeman for unreasonable search and seizure and false arrest and seeks relief pursuant to 42 U.S.C.A. § 1983. Plaintiff alleges that her arrest and prosecution were "carried out, at least in part, if not entirely, because of her race, or because the defendants see all Black persons as the same and not worthy of fair or just treatment, because Cole and Coles are black women." (See Amend. Compl. at ¶ 18).

Hopton argues for summary judgment on the basis of the qualified immunity defense. Haldeman puts forth several arguments for his summary judgment motion: (1) positive identification by the victim constitutes probable cause; (2) the finding of probable cause by a neutral and detached magistrate immunized him from liability; (3) he is entitled to qualified immunity; and (4) negligence cannot support a civil rights claim. The Court now considers the motions of Hopton and Haldeman and Plaintiff's responses thereto.

A. Summary Judgment Standard

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

party moving for summary judgment has the initial burden of showing the basis for its motion. Celotex Corp. v. Catrett, 477 U.S. 317, 323 (1986). Ultimately, the moving party bears the burden of showing that there is an absence of evidence to support the nonmoving party's case. Id. at 325. Once the movant adequately supports its motion pursuant to Rule 56(c), the burden shifts to the nonmoving party to go beyond the mere pleadings and present evidence through affidavits, depositions, or admissions on file to show that there is a genuine issue for trial. See id. at 324. A genuine issue is one in which the evidence is such that a reasonable jury could return a verdict for the nonmoving party. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248, 106 S. Ct. 2509 (1986). A fact is "material" only if it might affect the outcome of the suit under applicable rule of law. Id.

When deciding a motion for summary judgment, a court must draw all reasonable inferences in the light most favorable to the nonmovant. Big Apple BMW, Inc. v. BMW of N. Am., Inc., 974 F.2d 1358, 1363 (3d Cir. 1992), cert. denied, 507 U.S. 912 (1993). Moreover, a court may not consider the credibility or weight of the evidence in deciding a motion for summary judgment, even if the quantity of the moving party's evidence far outweighs that of its opponent. Id. Nonetheless, a party opposing summary judgment must do more than rest upon mere allegations, general denials, or vague statements. Trap Rock Indus., Inc. v. Local 825, 982 F.2d 884, 890

(3d Cir. 1992). The court's inquiry at the summary judgment stage is the threshold inquiry of determining whether there is need for a trial--that is whether the evidence presents a sufficient disagreement to require submission to a jury or whether it is so one-sided that a one party must prevail as a matter of law. Anderson, 477 U.S. at 250-52. If there is sufficient evidence to reasonably expect that a jury could return a verdict in favor of plaintiff, that is enough to thwart imposition of summary judgment. Id. at 248-51.

B. Defendants' Motions for Summary Judgment

Both Hopton and Haldeman assert the qualified immunity defense as a basis for summary judgment. The Court, drawing all reasonable inferences in the light most favorable to the non-moving party, concludes that there are sufficient issues of material fact as to preclude the grant of summary judgment as prayed for by each defendant.

1. Qualified Immunity

Each defendant assert the defense of qualified immunity which shields a government official performing discretionary functions from civil liability insofar as his or her "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, 102 S. Ct. 2727 (1982). Even if a

court concludes that a defendant violated a plaintiff's statutory or constitutional rights, the court must determine as a matter of law whether his or her conduct was based upon an objectively reasonable, good faith belief that probable cause existed for plaintiff's arrest and detention. See Orsatti v. New Jersey State Police,, 71 F.3d 480, 483 (3d Cir. 1995). The reasonableness of a defendant's conduct may be determined as a matter of law if no disputed issues of material fact exist concerning the evidence of probable cause or if a reasonably well-trained officer, with knowledge of the information available to the defendant, would have believed under the circumstances that he or she had probable cause to arrest the plaintiff. See Grant v. Borough of Darby, No. CIV.A. 98-1206, 1999 WL 236609, at *3 (April 15, 1999); Doherty v. Haverkamp, 1997 WL 297072, at *7 (E.D. Pa. May 28, 1997) (citing Orsatti, 71 F.3d at 483). Qualified immunity provides ample leeway for "mistaken judgments" by protecting "all but the plainly incompetent or those who knowingly violate the law." Malley v. Briggs, 475 U.S. 335, 342, 106 S. Ct. 1092 (1986).

The threshold inquiries which inform a court's qualified immunity analysis are whether the plaintiff asserts a violation of a constitutional right and whether that constitutional right was clearly established at the time the plaintiff's rights were allegedly violated.

In the instant matter, Plaintiff purportedly states claims of false arrest and unreasonable search and seizure under 42 U.S.C. § 1983. To establish a claim under § 1983, the plaintiff must show that the defendants, acting under color of law, deprived her of a right or privilege secured by the Constitution or laws of the United States. Williams v. Borough of West Chester, 891 F.2d 458, 464 (3d Cir. 1989).

a. False Arrest

When a claim of false arrest is alleged, the proper inquiry is whether the arresting officers had probable cause to believe the person arrested had committed the offense, not whether the person arrested in fact committed the offense. Dowling v. City of Philadelphia, 855 F.2d 136, 141 (3d Cir. 1988). Probable cause to arrest exists "where the facts and circumstances within the arresting officer's knowledge are sufficient in themselves to warrant to believe that an offense had been committed by the person to be arrested." Orsatti v. New Jersey State Police, 71 F.3d 480, 483 (3d Cir. 1995 (citing United States v. Cruz, 910 F.2d 1072, 1076 (3d Cir. 1990))); Brennan v. Springfiled Township, CIV.A. No. 97-5217 (E.D. Pa. July 8, 1998). The arrest of a person mistakenly believed to be another under the Fourth Amendment is valid if the arresting officer (1) had probable cause to arrest the person sought and (2) reasonably believed the person arrested was the person sought. Hill v. California, 401 U.S. 797, 802, 91 S. Ct.

1106 (1971). Because an arrest warrant requires a judicial determination of probable cause, an arrest pursuant to a facially valid warrant usually satisfies the Fourth Amendment's requirements. Grant v. Borough of Darby, No. CIV.A. 98-1206, 1999 WL 236009, at *4 (E.D. Pa. Apr. 15, 1999).

b. Search and Seizure

The Fourth Amendment of the United States Constitution guarantees that "[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation...." U.S. Const. amend. IV. "The essential purpose of the proscriptions in the Fourth Amendment is to impose a standard of reasonableness upon the exercise of discretion by government officials, including law enforcement officials, in order to safeguard the privacy and security of individuals against arbitrary invasions." Delaware v. Prouse, 440 U.S. 648, 653-54, 99 S. Ct. 1391, 1396 (1979) (citing Marshall v. Barlow's, Inc., 436 U.S. 307, 312, 98 S. Ct. 1816, 1820 (1978)). "[T]he key principle of the Fourth Amendment is reasonableness--the balancing of competing interest." Michigan v. Summers, 452 U.S. 692, 700 n. 12, 101 S. Ct. 2587, 2593 n. 12 (1981) (quoting Dunaway v. New York, 442 U.S. 200, 219, 99 S. Ct. 2248, 2260 (1979) (White, J., concurring)). "Thus, permissibility of a particular law

enforcement practice is judged by balancing its intrusion on the individual's Fourth Amendment interest against its promotion of legitimate governmental interest." Prouse, 440 U.S. at 654, 99 S. Ct. at 1396; see also United States v. Brignoni-Ponce, 422 U.S. 873, 878, 95 S. Ct. 2574, 2578-79 (1975) ("As with other categories of police action subject to the Fourth Amendment constraints, the reasonableness of such seizures depends on a balance between the public interest and the individual's right to personal security free from arbitrary interference by law officers").

When someone or her belongings are seized and searched without a warrant, the government bears the burden to demonstrate that the search and seizure were reasonable. United States v. Johnson, 63 F.3d 242, 245 (3d Cir. 1995), cert. denied, 518 U.S. 1007, 116 S. Ct. 2528 (1996). "Whether an individual has been 'seized,' or whether there has been nothing more than a consensual encounter, depends upon whether, 'in view of all of the circumstances surrounding the incident, a reasonable person would have believed that he was not free to leave.'" United States v. Martel, 966 F. Supp. 317, 320 (D.N.J. 1997) (quoting United States v. Mendenhall, 446 U.S. 544, 555, 100 S. Ct. 1870 (1980)). A court must consider the totality of the circumstances objectively, although "it is appropriate to consider a defendant's characteristics, such as age, maturity, education, intelligence, and experience." Martel, 966 F. Supp. at 320 (citing Florida v.

Bostick, 501 U.S. 429, 111 S. Ct. 2382 (1991); United States v. Watson, 423 U.S. 411, 96 S. Ct. 820 (1976); Schneckloth v. Bustamonte, 412 U.S. 218, 93 S. Ct. 2041 (1973)).

c. Hopton's Qualified Immunity Defense

There is a factual dispute regarding the circumstances surrounding Plaintiff's Second Arrest. Plaintiff alleges that said arrest was made by Hopton although he knew she was not the person identified in the Second Warrant. The implication of this allegation is that her arrest was therefore unlawful and a violation of her constitutional rights as it was effected in the total absence of probable cause.

Although unclear, Hopton appears to argue that Plaintiff's claim that her constitutional rights were violated concerns only the events that occurred after he lawfully arrested her pursuant to a facially valid arrest warrant. That is, Hopton appears to argue that Plaintiff's instant claims arise from her Second Arrest and that liability cannot attach to him as he was not involved in the Second Arrest. Hopton therefore argues that his conduct did not violate Plaintiff's constitutional rights and asserts the defense of qualified immunity.

As neither the validity of the Second Warrant nor the "state actor acting under color of state law" requirement are challenged, the Court's inquiry is focused on whether Hopton had probable cause to make the Second Arrest of Plaintiff. Hopton states that he did not believe that the Second Warrant pertained to Plaintiff and advised the District Justice of this belief. Plaintiff's Amended Complaint corroborates Hopton's statement.

(See Compl. at ¶ 15). Moreover, Hopton's Pretrial memorandum states that at the time of the Second Arrest, he had knowledge of another person with a similar name (i.e., Marcela Cole) whom he believed engaged in criminal activity similar to that identified in the Second Warrant. (See Hopton's Pretrial Mem. at 1). Plaintiff alleges that Hopton arrested her nonetheless. (See Compl. at ¶ 15).

The Court stresses that it is not the Court's responsibility to resolve disputed issues of fact. Anderson, 477 U.S. 242, 247-49 (1986). At the summary judgment stage, the Court must only determine whether there exists any factual disputes to be tried. Id. Under applicable case law, there is a genuine issue for trial as to whether the facts and circumstances within Hopton's knowledge at the time of the Second Arrest were sufficient in themselves to substantiate the belief that the offense in question was committed by Plaintiff. See Orsatti v. New Jersey State Police, 71 F.3d 480, 483 (3d Cir. 1990) (citations omitted). It is unclear whether Hopton's conduct (i.e., arresting Plaintiff pursuant to the Second Warrant) was based upon an objectively reasonable, good faith belief that probable cause existed for Plaintiff's arrest and detention. See Orsatti v. New Jersey State Police, 71 F.3d 480, 483 (3d Cir. 1990). Because the qualified immunity defense fails when an arrest is made without probable cause, Hopton's Motion for Summary Judgment is denied.

d. Haldeman's Qualified Immunity Defense

To the extent that Haldeman participated in the arrest of Plaintiff, whether actually causing her to believe that she was not free to leave or authoring the affidavit of probable cause and criminal complaint, there is an issue of material fact concerning whether he had reasonable cause to take either action. At this juncture, the Court cannot determine as a matter of law the reasonableness of his conduct. If Haldeman was aware at the time of the second arrest that Hopton did not believe that Plaintiff was the person named in the Second Warrant, then the facts and circumstances in Haldeman's knowledge at the time of said arrest may not be sufficient to sustain a finding of probable cause. In the absence of probable cause, the qualified immunity defense fails. Therefore, Haldeman's Motion for Summary Judgment is denied to the extent that it asserts the qualified immunity defense.

e. Haldeman's Additional Arguments for Summary Judgment

Haldeman states three additional arguments for summary judgment: (1) positive identification by the victim constitutes probable cause; (2) the finding of probable cause by a neutral and detached magistrate immunizes him from liability; and (3) negligence cannot support a civil rights claim.

Haldeman argues that positive identification by the victim or an eye witness constitutes probable cause. The Court

fails to understand this argument's relevance to the instant matter as it is not alleged that the victim or an eyewitness identified Plaintiff as the person named in the Second Warrant. Additionally, the case law cited by Haldeman fails to advance his argument. See, e.g., McDevitt v. Bader, CIV.A. No. 86-7105, 1987 WL 11924, at *1 (discussing probable cause in the context of victim's visual identification of defendant); Davis v. Tamburo, 849 F. Supp. 1294, 1294-95 (discussing probable cause in context of visual identification of defendant). Accordingly, Haldeman's Motion is denied to the extent that it relies on the argument that positive identification by the victim or an eye witness constitutes probable cause.

Haldeman also argues that the finding of probable cause by a neutral and detached magistrate immunizes him from liability. As stated above, the sequence of events surrounding Plaintiff's Second Arrest is unclear to the Court. If Haldeman participated in Plaintiff's second arrest on the basis of the Second Warrant while also having substantial doubts as to the existence of probable cause, then his argument fails. On the other hand, if Plaintiff was arrested by Haldeman pursuant to the District Justice's finding that probable cause existed for Plaintiff's arrest pursuant to the Second Warrant, then Haldeman might have a cognizable defense to liability. Nevertheless, as the record is unclear as to the sequence of events surrounding the Second Arrest and the record

fails to demonstrate that probable cause existed for the Second Arrest, a genuine issue of material fact exists. Accordingly, Haldeman's instant Motion is denied to the extent it relies on the argument that he is immunized from liability because a magistrate made a prior finding of probable cause.

Finally, Haldeman argues that negligence cannot support a civil rights claim. Plaintiff alleges, however, that her arrest and prosecution were "carried out at least in part, if not entirely, because of her race" (Amended Compl. at § 18 (emphasis added)). This allegation indicates to the Court that Plaintiff's claim does not sound in negligence. Accordingly, Haldeman's argument fails to convince this Court that summary judgment is appropriate.

An appropriate Order follows.

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

MARCIA COLES : CIVIL ACTION
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 CONSTABLE KENNETH HOPKINS, and :
 OFFICER ALAN HALDEMAN : NO. 98-5465

O R D E R

AND NOW, this 20th day of December, 1999, upon consideration of Defendant Kenneth Hopton's ("Hopton")⁵ Motion for Summary Judgment (Docket No. 17), Plaintiff Marcia Cole's ("Plaintiff") response thereto (Docket No. 18), Defendant Alan Haldeman's ("Haldeman") Motion for Summary Judgment (Docket No. 21), and Plaintiff's response thereto (Docket No. 26), IT IS HEREBY ORDERED that the Defendants' Motions for Summary Judgment are **DENIED**.

BY THE COURT:

HERBERT J. HUTTON, J.

⁵/ The instant lawsuit's caption states in error that Kenneth "Hopkins" is a defendant. Defendant's actual name is Kenneth Hopton.