

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

JOHN HUGHES)
) Civil Action
 v.)
) No. 00-6054
DEBORAH SHESTAKOV, ET AL.)

MEMORANDUM

Padova, J.

July , 2002

The instant matter arises on the Motion for Summary Judgment of Defendants the City of Philadelphia, Sergeant Frank Rawling, Police Officer Richard Cannon, Police Officer Brian Spearman, and Police Officer Jenette Carter ("Moving Defendants"). For the reasons that follow, the Court grants the motion. Specifically, the false arrest claims against the individual officers are dismissed, and judgment is granted in favor of the Moving Defendants with respect to the conspiracy to commit false arrest, excessive force, and conspiracy to commit excessive force claims. The remainder of the action is dismissed pursuant to 28 U.S.C. § 1367(c)(3).

I. Background

This action arises out of a dispute between Plaintiff John Hughes and his neighbors, Defendants Deborah Shestakov and John Shestakov. Plaintiff asserts a variety of claims against those individuals and others. In Count I of the Second Amended Complaint, Plaintiff brings claims against the Moving Defendants

for federal civil rights violations. Count I actually consists of two sets of claims under 42 U.S.C. § 1983: (a) false arrest and conspiracy to commit false arrest in violation of the Fourth Amendment against Sergeant Rawling and Police Officers Cannon, Spearman, and Carter¹; and (b) excessive force and conspiracy to use excessive force in violation of the Fourth and Fourteenth Amendments against the City of Philadelphia and individual officers.² The claims include individuals not necessarily involved directly in the action (for example, the false arrest violation includes individuals that did not actually arrest the Plaintiff) by virtue of the allegation of conspiracy.

II. Legal Standard

Summary judgment is appropriate "if the pleadings, depositions, answers to interrogatories, and admissions on file,

¹Although Plaintiff's brief in opposition to summary judgment challenges the City of Philadelphia's arrest policy, Plaintiff failed to include such a claim in his Second Amended Complaint. In the Second Amended Complaint, Plaintiff alleged only that the false arrest violation stemmed from the police officers' lack of probable cause to arrest Hughes and lack of authority under state law to arrest for a summary offense. In fact, the Second Amended Complaint states that "it is the custom of the police in Pennsylvania, in accordance with the laws of the Commonwealth, not to issue summons[es] for minor offenses which they have not witnessed and which are based solely on a civilian complaint. Such complaints are referred to the District Attorney's office." (Sec. Am. Compl. ¶ 62.) Therefore, a false arrest claim against the City is now barred.

²Although Plaintiff's excessive force claim stems from the alleged City policy or practice, the conspiracy to use excessive force suggests a claim against individual officers. Officers Spearman and Carter drove the police van.

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. Under Rule 56, 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).

III. Discussion

A. False Arrest/Conspiracy (Count I)

Plaintiff's first claims under 42 U.S.C. § 1983 are for false arrest and conspiracy to commit false arrest.³ Plaintiff alleges that he was falsely arrested and taken into custody for a non-felony offense that was committed outside the presence of the arresting officers. Moving Defendants claim that they are entitled to summary judgment because it is uncontroverted that Sergeant Rawlings and Officers Spearman and Carter ("arresting officers") had probable cause for an arrest.⁴ Plaintiff contends that there

³"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).

⁴It is undisputed that Officer Richard Cannon was not present at the scene at the time that Plaintiff was arrested.

was no probable cause, because the arrest was based entirely on information given to them by Deborah Shestakov, and that the arrest was not authorized under Pennsylvania law.

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 810, 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, 393 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).

Plaintiff does not dispute that Ms. Shestakov gave a statement implicating him, and that she told the officers that she actually witnessed him crack her windshield. He also does not dispute that the officers inspected the vehicle and found a crack on the windshield. In short, Plaintiff does not dispute the existence of the evidence upon which the arresting officers made their probable cause determination. Hence, it was not inappropriate for the

arresting officers to rely solely on Ms. Shestakov's account. See Colbert v. Angstadt, 169 F. Supp. 2d 352, 360 (E.D. Pa. 2001); Carter v. City of Philadelphia, No.97-CV-4499, 2000 WL 1578495, at *4 (E.D. Pa. Oct. 13, 2000). Plaintiff also fails to adduce evidence demonstrating that this reasonable reading of the evidence was not the reason for the arrest. Plaintiff therefore has not established a genuine issue of material fact as to the existence of probable cause to make an arrest.

Moreover, even if Plaintiff could ultimately prove that the arresting officers erred in their determination that probable cause existed to make the arrest, under the circumstances as presented they are entitled to qualified immunity. The doctrine of qualified immunity protects government officials from suit when "their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known." Sharrar v. Felsing, 128 F.3d 810, 826 (3d Cir. 1997) (quoting Harlow v. Fitzgerald, 457 U.S. 800, 818 (1982)). Qualified immunity protects "all but the plainly incompetent or those who knowingly violate the law." Malley v. Briggs, 475 U.S. 335, 341 (1986). In the context of a claim based on probable cause, qualified immunity shields officers from suit for damages if "a reasonable officer could have believed [the arrest] to be lawful, in light of clearly established law and the information the [arresting] officers possessed." Anderson v. Creighton, 483 U.S.

635, 641 (1987). Even law enforcement officials who "reasonably but mistakenly conclude that probable cause is present" are entitled to immunity. Id. Based on the evidence available to the officers at the time of the arrest, and viewing this evidence in the light most favorable to the Plaintiff, the officers in this case could have believed that probable cause existed to arrest the plaintiff. See Hunter v. Bryant, 502 U.S. 224, 227 (1991); Walker v. Montella, No.CIV.A.92-6558, 1994 WL 43356, at *2 (E.D. Pa. Feb. 10, 1994). Thus, the doctrine of qualified immunity bars the false arrest claim against the arresting officers based on a lack of probable cause.

Plaintiff also argues that regardless of whether there was probable cause to believe Plaintiff committed the summary offense, his arrest violated the Fourth Amendment because the officers lacked the authority to arrest him on the basis of probable cause without a warrant for what constituted a misdemeanor or summary offense.⁵ The Fourth Amendment of the Constitution does not forbid a warrantless arrest for a misdemeanor criminal offense punishable only by a fine. Atwater v. City of Lago Vista, 532 U.S. 318, 354

⁵The charges were ultimately discharged because the Commonwealth charged Plaintiff with vandalism rather than criminal mischief, and failed to indicate criminal mischief on the complaint sheet. The only applicable charge was one for criminal mischief. The court determined that although Plaintiff had notice that the actual charge was criminal mischief, the record had not been properly amended prior to the trial. (Defs.' Ex. G "Transcript of Hearing before Judge Neifield" at 42-55.)

(2001) ("If an officer has probable cause to believe that an individual has committed even a very minor criminal offense in his presence, he may, without violating the Fourth Amendment, arrest the offender."). However, the United States Supreme Court has not ruled on whether such arrests may be made when the offense is committed outside the presence of the peace officer.⁶ Id. at 340 n.11 ("We need not, and thus do not, speculate whether the Fourth Amendment entails an "in the presence" requirement for purposes of misdemeanor arrests."). In determining whether an arrest was lawful under Pennsylvania law, "we begin with the notion that law enforcement authorities must have a warrant to arrest an individual in a public place unless they have probable cause to believe that: 1) a felony has been committed; and 2) the person to be arrested is the felon." Commonwealth v. Clark, 735 A.2d 1248, 1251 (Pa. 1999). Generally, a warrant is also required to make an arrest for a misdemeanor, unless the misdemeanor is committed in the presence of the police officer. Id. (citing Commonwealth v. Freeman, 514 A.2d 884, 888 (Pa. Super. Ct. 1986)). However, the legislature may authorize law enforcement officers to make warrantless arrests for misdemeanors committed outside their presence in certain circumstances. Id.

⁶In Atwater, the peace officer witnessed the plaintiff commit a violation of the state's seatbelt law. Additionally, it was undisputed in that case that Texas law granted the officer the authority to make a warrantless arrest in such a circumstance.

Defendants argue that Pennsylvania law provides authority for a municipal officer to make a warrantless arrest for a summary or misdemeanor offense on the basis of a probable cause determination. Defendants rely principally on § 8952 of Title 42 of the Pennsylvania Consolidated Statutes, which provides:

Any duly employed municipal police officer shall have the power and authority to enforce the laws of this Commonwealth or otherwise perform the functions of that office anywhere within his primary jurisdiction as to:

- (1) Any offense which the officer views or otherwise has probable cause to believe was committed within his jurisdiction.
- (2) Any other event that occurs within his primary jurisdiction and which reasonably requires action on the part of the police in order to preserve, protect or defend persons or property or to otherwise maintain the peace and dignity of this Commonwealth.

42 Pa. Cons. Stat. Ann. § 8952 (West 2000). The Superior Court of Pennsylvania has concluded that this section grants an officer the authority to act on the basis of a probable cause determination, and not solely with respect to offenses he himself witnessed. Commonwealth v. Elliott, 599 A.2d 1335, 1337-38 (Pa. Super. Ct. 1991). In Elliott, the court explicitly rejected the party's reliance on Commonwealth v. Pincavitch, 214 A.2d 280 (1965), in which the same court had determined that there was "no authority that justifies an arrest without a warrant for a . . . summary offense committed beyond the presence of the arresting officer in the absence of a statute giving that right." Elliott, 599 A.2d

1337 (citing Pincavitch, 214 A.2d at 282). The court observed that the legislature intended for probable cause to serve as the defining boundary of police authority in arresting or citing an individual for a summary offense. Id. at 1338. Defendants also rely on United States v. Jones, No.00-242, 2000 WL 1389742 (E.D. Pa. Dec. 14, 2000), in which the Court noted that "[m]unicipal police officers may arrest parolees for whom probable cause exists to believe that they have committed summary or technical offenses." Jones, 2000 WL 1389742, at *4.

The Defendants further argue that the municipal code also provides the authority to take individuals into custody so that a citation can be issued on a summary offense. Municipal Court Rule 1002 provides:

(A) In all criminal proceedings in which a person is accused only of one or more non-traffic summary offenses or violation of municipal criminal ordinances, proceedings shall be instituted by:

(1) A Citation Issued to the Defendant. Except as provided in paragraph (A)(3) below, the police officer shall take the accused into custody and transport him or her to the appropriate district police station, where without unnecessary delay the police officer or a superior officer may issue a citation and summons notifying the defendant to appear for trial within 30 days or order the defendant's release.

See Phila. Mun. Ct. R. 1002. As Defendants contend, the language does suggest authorization for such arrests in such circumstances.⁷

Plaintiff argues that Pennsylvania common law prohibits such arrests, and that the legislature has not provided such authority by statute. He cites several Pennsylvania decisions in which the court determined that officers lacked the authority to make warrantless probable cause arrests for various misdemeanor offenses. See Commonwealth v. Clark, 735 A.2d 1248 (Pa. 1999)⁸; Commonwealth v. Bullers, 637 A.2d 1326, 1327 (Pa. 1994) (holding, without any reference to § 8952, that police officers lack the authority under statute to arrest without a warrant for the summary offense of underage drinking in the absence of disorderly conduct, breach of the peace, drunkenness, or other irregular behavior).

⁷However, paragraph (A)(3), which governs arrest without a warrant, provides that a police officer may arrest the defendant without a warrant on a summary offense or violation of municipal criminal ordinance only when: "(a) the arrest is necessary in the judgment of the officer; and (b) such arrest is authorized by law." Phila. Mun. Ct. R. 1002(A)(3). This tends to suggest that the rule does not modify Pennsylvania statutory law with respect to warrantless arrests for summary offenses.

⁸Clark involved a warrantless arrest for theft, an offense for which police officers have explicit statutory authority to make a warrantless probable cause arrests, regardless of the grade of theft. 18 Pa. Cons. Stat. Ann. § 3904 (West 2000). The court determined that the officer lacked "probable cause to believe that [defendant] had committed either a felony or a misdemeanor . . ." Clark, 735 A.2d at 1252. The court also observed that there was probable cause for the officer to believe that the misdemeanor offense of loitering and prowling at nighttime had taken place, but that this crime is a misdemeanor for which police have not been granted the authority to make an arrest in the absence of the police officer's witnessing of the crime. Id. at 1253.

None of the cases relied on by Plaintiff, however, involved the type of offense involved in the instant case, or any discussion or consideration of 42 Pa. Cons. Stat. § 8952. Moreover, there is no Pennsylvania Supreme Court decision interpreting this section.

In light of the unclear state of the law with respect to this issue,⁹ the arresting officers are entitled to qualified immunity from suit on the basis of false arrest. To be clearly established for purposes of the qualified immunity analysis, the contours of the right must be sufficiently clear such that a reasonable official would understand that what he is doing violates that right. Karnes v. Skrutski, 62 F.3d 485, 492 (3d Cir. 1995). The salient question, therefore, is whether, given the state of the established law and the information available to the arresting officers, a reasonable law enforcement officer in their position could have believed that their conduct was lawful. Anderson v. Creighton, 483 U.S. 635, 649 (1987); Paff v. Kaltenbach, 204 F.3d 425, 431 (3d Cir. 2000). Looking at the state of the law, the Court concludes that the law at the time of Plaintiff's arrest was not clear. Notwithstanding the language of the Pennsylvania

⁹Additionally, Plaintiff refers to Police Directive 60, a document relied upon by the arresting officers in interpreting departmental policy with respect to arrests. (Defs.' Ex. K.) The directive, which constitutes information available to the officers at the time of the arrest, appears to suggest that an officer may take an individual into custody for a summary offense not committed in front of the officer. (Id.) In light of the caselaw, the Directive adds to the lack of clarity which suggests that the application of the qualified immunity doctrine is appropriate.

Supreme Court's decision in Clark, there has been no interpretation by that court of § 8952. The only decision interpreting § 8952 is the Philadelphia Superior Court decision which interprets that section as granting police officers the authority to make warrantless arrests based on probable cause for similar summary offenses. Furthermore, Municipal Court Rule 1002 suggests that officers have this authority with respect to non-traffic summary offenses. For these reasons, qualified immunity bars Plaintiff's false arrest claim, and the claim is therefore dismissed as against the arresting officers.

Plaintiff's conspiracy to commit false arrest claim also fails. In order to prove conspiracy, the Plaintiff must establish: (1) a single plan, the essential nature and general scope of which was known to each person who is to be held responsible for the consequences; (2) the purpose of the plan was to violate the constitutional rights of the plaintiff; and (3) an overt act resulted in the actual deprivation of the plaintiff's constitutional rights. Kelleher v. City of Reading, No.CIV.A.01-3386, 2002 WL 1067442, at *7 (E.D. Pa. May 29, 2002). In this case, even assuming that there is a genuine issue of material fact as to whether there was a false arrest (and therefore, a constitutional violation), Plaintiff has not adduced evidence establishing that there was a single plan whose purpose everyone involved knew, or that the purpose of the plan was to violate

Plaintiff's rights. Plaintiff points to his own deposition testimony that he frequently saw Officer Richard Cannon (Defendant Deborah Shestakov's brother) "hanging out" on his sister's front steps, and that he saw Cannon on several occasions "making contact" with summoned police vehicles. (Pl.'s Ex. 1 ("Hughes Dep.") at 178-79, 49-51), and that he threatened Hughes on occasion. (Id. at 53-54.) He points to the testimony of several officers regarding the extensive disputes (involving reports to the police) between the Plaintiff and the Shestakovs. He contends that at some point, all three officers were aware that Shestakov was Officer Cannon's sister. Pl.'s Ex. 6 ("Spearman Dep.") at 50; Pl.'s Ex. 7 ("Rawling Dep.") at 65; Pl.'s Ex. 8 ("Carter Dep.") at 11-12. He further contends that his arrest was ordered after Sergeant Rawlings came to his office and asked him if he was going to pay for the damage to the windshield and he said no. (Hughes Dep. at 157-158, 207-08.) None of this evidence, however, when taken cumulatively and interpreted in the light most favorable to Plaintiff, adds up to a conspiracy to violate his constitutional rights. Accordingly, judgment is entered in favor of Defendants Rawling, Spearman, Carter, and Cannon with respect to Plaintiff's claim for conspiracy to commit false arrest.¹⁰

¹⁰The Court does not understand Plaintiff's conspiracy claim to include the non-police Defendants. The Court notes, however, that in the absence of any state action, there can be no § 1983 claim against the private individuals.

B. Excessive Force/Conspiracy (Count I)

Plaintiff's second federal civil rights claims are for excessive force and conspiracy to use excessive force in violation of the Fourth and Fourteenth Amendments. Plaintiff alleges that he sustained injuries while being transported to the police station following his arrest. Specifically, he alleges that he slipped and fell while entering and exiting the police van, (Sec. Am. Compl. ¶¶ 51, 54), and was taken on a "rough ride" or "nickel ride." (Id. ¶¶ 63-64.) He contends that the police actions constituted excessive force, and resulted from the City's policy or custom which allowed such "rough rides" to take place.

Plaintiff, however, has adduced no evidence to support the conclusion that he was ever taken on a "rough ride." In his own deposition, Plaintiff admits that Officers Spearman and Carter, who drove the vehicle, "may have done everything right" in operating the van while on the way to the district." (Hughes Dep. at 175.) Plaintiff in fact admits that he did not suffer major injuries from his ride in the van. He testified that there was no step to exit the van. (Hughes Dep. at 180.) He did not ask the officers for help getting out, and jumped instead. (Hughes Dep. at 182.) He admits that "[he] wasn't going to ask them to help me out." (Hughes Dep. at 182.) Plaintiff has failed to sustain his burden of showing that the Defendants used excessive force against him.

The individual officers are therefore entitled to judgment against Plaintiff on the excessive force claim.

The claim similarly fails as against the City of Philadelphia. In order to prevail against a municipality, a plaintiff must establish that his constitutionally protected rights have been violated. Monell v. New York City Dept. of Soc. Svcs., 436 U.S. 658, 694-95 (1978); Andrews v. City of Philadelphia, 895 F.2d 1469, 1480 (3d Cir. 1990). Plaintiff has failed to set forth evidence demonstrating that he was taken on a constitutional rights-violating ride.

Moreover, even if Plaintiff could demonstrate that he was taken on a "rough ride," he fails to adduce evidence to establish that the City of Philadelphia had a policy or custom of giving nickel rides. Plaintiff relies exclusively on the deposition testimony of Police Chief Inspector Frank M. Pryor. Inspector Pryor's testimony establishes only that he knew of "rough rides" from the 1960s and 1970s. (Pl.'s Ex. 9 ("Pryor Dep.") at 54-56.) He testified he had participated in such rides whose object was to get the individual's attention, but never to injure or hurt anybody. (Id. at 56.) He testified that it was not a practice, but that it did happen, and that he did not remember anybody ever getting injured. (Id. at 56.) He did not testify to any personal knowledge of the practice still existing or existing in recent times, and merely commented that, "Are you saying that officers are

going out there intentionally doing that now? It's not condoned, but I think if there was a history of that, we would know that about the employees. We don't sanction this." (Id. at 60.) Drawing all reasonable inferences from Pryor's testimony in Plaintiff's favor, there is no evidence of an existing policy by the City of Philadelphia with respect to "rough" rides. For these reasons, summary judgment is granted in favor of all Moving Defendants on Plaintiff's claim of excessive force.

Finally, the moving Defendants are also entitled to summary judgment on the conspiracy to use excessive force claim, because Plaintiff has failed to establish the violation of a constitutional right.¹¹ Holt Cargo Sys. Inc. v. Delaware River Port Auth., 20 F. Supp. 2d 803, 843 (E.D. Pa. 1998); Seiger v. Township of Tinicum, Civ.Act.No.89-5236, 1990 WL 10349, at *3 (E.D. Pa. Feb. 6, 1990). Accordingly, judgment is granted in favor of the moving Defendants and against Plaintiff on the conspiracy to use excessive force claim.¹²

¹¹Furthermore, with respect to the City of Philadelphia, Plaintiff has failed to establish an actual constitutional violation resulting from a policy or custom of the City. See Seiger v. Township of Tinicum, 1990 WL 10349, at *3 (emphasis added).

¹²As with the conspiracy to commit false arrest claim, the Court does not understand the claim to include the non-police Defendants. Again, however, in the absence of any state action, there can be no § 1983 claim against the private individuals.

C. State Law Claims (Count II)

The Court having dismissed or granted judgment on Plaintiff's § 1983 claims, the only claims remaining in the case are the state law claims against the remaining non-diverse defendants. The supplemental jurisdiction statute provides:

(c) The district court may decline to exercise supplemental jurisdiction over a claim under subsection (a) if -

(3) the district court has dismissed all claims over which it has original jurisdiction, . . .

28 U.S.C. § 1367; Borough of West Mifflin v. Lancaster, 45 F.3d 780, 788 (3d Cir. 1995); Wright v. Onembo, Civ.Act.99-4488, 2000 U.S. Dist. LEXIS 15521, at *13 n.10 (E.D. Pa. Oct. 4, 2000). As the Court would not have had independent subject matter jurisdiction over the claims in Count II, the Court hereby dismisses the remaining claims.

IV. Conclusion

For the above reasons, the false arrest claims are dismissed under the doctrine of qualified immunity with respect to the arresting officers Sergeant Rawling, Officer Spearman, and Officer Carter. Judgment is entered in favor of the Moving Defendants¹³ and against Plaintiff on the conspiracy to commit false arrest claims. Judgment is granted in favor of the Moving Defendants and against

¹³As noted above, the City of Philadelphia was not a Defendant with respect to Plaintiff's false arrest or conspiracy claims.

Plaintiff on the claims of excessive force and conspiracy to use excessive force. All remaining state law claims are dismissed pursuant to 28 U.S.C. § 1367(c)(3).

An appropriate Order is attached.

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ORDER

AND NOW, this day of July, 2002, upon consideration of the Motion for Summary Judgment of Defendants the City of Philadelphia, Sergeant Frank Rawling, Police Officer Richard Cannon, Police Officer Brian Spearman, and Police Officer Jenette Carter pursuant to Federal Rule of Civil Procedure 56(c) (Doc. No. 39), and all responsive and opposing briefing and documentation, **IT IS HEREBY ORDERED** that said Motion is **GRANTED**. In furtherance thereof, **IT IS ORDERED** that:

1. The Section 1983-false arrest claim against Defendants Sergeant Frank Rawling, Police Officer Richard Cannon, Police Officer Brian Spearman, and Police Officer Jenette Carter, is **DISMISSED**.
2. **JUDGMENT** is entered in favor of Defendants Sergeant Frank Rawling, Police Officer Richard Cannon, Police Officer Brian Spearman, and Police Officer Jenette Carter, and against Plaintiff, on the Section 1983-conspiracy to commit false arrest claim.

3. **JUDGMENT** is entered in favor of Defendants Sergeant Frank Rawling, Police Officer Richard Cannon, Police Officer Brian Spearman, Police Officer Jenette Carter, and the City of Philadelphia, and against Plaintiff, on the Section 1983-excessive force and Section 1983-conspiracy to use excessive force claims.
4. All remaining claims against all other Defendants are **DISMISSED** with respect to all remaining Defendants pursuant to 28 U.S.C. § 1367(c)(3).
5. The Clerk of Court shall close this case for statistical purposes.

BY THE COURT:

John R. Padova, J.