

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

GLEN EHLY, ET AL. : CIVIL ACTION
 :
 Plaintiffs, : 03-3634
 :
 v. :
 :
 CITY OF PHILADELPHIA, ET AL., :
 :
 Defendants. :

MEMORANDUM AND ORDER

JOYNER, J.

November 9, 2004

This case is now before the Court for resolution of Defendant Police Officer Peter Luca's Motion to Dismiss Counts I, II, and V - VIII of Plaintiff's Complaint and to Exclude Evidence, and Plaintiff Gregory Ehly's Countermotion for a Protective Order and Sanctions. For the reasons which follow, Defendant's Motion to Dismiss shall be granted only with respect to Counts II, V, and VI, and Defendant's Motion to Exclude Evidence shall be denied. Plaintiff's Countermotion shall be denied.

Facts

Plaintiffs bring this civil rights action against the City of Philadelphia, Police Officer Peter Luca, and others, arising from a September 17, 2001 altercation between Officer Luca and Plaintiff Gregory Ehly, the facts of which are in dispute. Plaintiffs allege that Defendant Luca, while off-duty and without provocation, handcuffed Plaintiff, punched him in the jaw,

slammed him into a police car, and beat him. Defendant Luca denies these allegations, contending that Plaintiff threatened Luca with bodily harm, rushed him, and proceeded to grab him; when Defendant Luca attempted to handcuff Plaintiff, Plaintiff and a friend allegedly grabbed him again, and Plaintiff's friend threw a punch at him.

Plaintiff was charged with simple assault, aggravated assault, terroristic threats, reckless endangerment of persons, and criminal conspiracy pursuant to a Petition for Delinquency dated September 19, 2001. On January 9, 2002, at a juvenile court proceeding before the Honorable Richard Gordon, Plaintiff entered an admission to the charge of simple assault. The transcript of the proceeding includes the following exchange:

THE COURT: It now says in the petition that on 9/17/01 at 7800 Ridge Avenue, defendant, while in concert with another attempted to cause and/or did knowingly, intentionally and recklessly cause bodily injury to the complainant, Police Officer Luca, badge 2210, by rushing, grabbing and throwing a punch at the complainant, while saying "I will 'F' him up and I am going to kill you, P-U-S-S-Y."

The admission is to the simple assault, the M-3. We find the defendant guilty.

...

THE COURT: Now, young man, the admission to mutual fray of simple assault is accepted. I am going to defer your adjudication for a period of 30 days.

...

THE COURT: For the next 30 days, I expect you to go to school. I want school reports. I just don't want to hear any complaints about you hanging out and drinking. Can you handle that?

THE DEFENDANT: Yes.

THE COURT: All right. He is now in a deferred

adjudication. There is no community service. The only thing I'm want to do is to make sure that he is not hanging out.

Judge Gordon then instructed counsel for both sides to report back on February 8, 2002 with copies of Gregory Ehly's report cards and letters from his teachers. It appears that, on February 8, 2002, the Petition of Delinquency and all charges against Gregory Ehly were dismissed.

Plaintiffs have now charged Defendant Luca with use of excessive force (Count I), unlawful arrest (Count II), and unlawful interference with familial relations (Count III), all pursuant to the Civil Rights Act, 42 U.S.C. § 1983. Plaintiffs have also brought state law claims against Defendant Luca for malicious prosecution (Count V), false arrest (Count VI), assault (Count VII), and intentional infliction of emotional distress (Count VIII). In addition to the action presently before this Court, Plaintiff has petitioned the Court of Common Pleas of Philadelphia County to re-open his juvenile proceedings, vacate his admission of January 9, 2002, and dismiss the original Petition of Delinquency. That status of Plaintiff's petition is pending.

Plaintiff's Motion for a Protective Order

Plaintiff moves for a protective order with respect to two documents incorporated as part of Defendant Luca's Motion to Dismiss - the Petition of Delinquency filed by the Assistant

District Attorney on September 19, 2001, and the transcript from Plaintiff's January 9, 2002 juvenile court proceeding.

We reject Plaintiff's contention that Defendant Luca's introduction of the delinquency petition and hearing transcript violates the confidentiality provisions of the Pennsylvania Juvenile Act. 42 Pa. C.S.A. § 6307, 6308. While § 6307 of the Act limits access to court files and records in juvenile proceedings, the transcript in question was of public record. The proceedings recorded in this transcript were open to the public, pursuant to 42 Pa. C.S.A. § 6336(e), as Plaintiff was over the age of 14 and being charged with conduct that would be considered a felony if committed by an adult. See 42 Pa. C.S.A. § 6336(e)(1). Counsel for Defendant Luca committed no wrong in obtaining this public record and incorporating it into the present motion.

We likewise reject Plaintiff's allegations that Defendant Luca obtained the delinquency petition through improper channels. Defendant Luca avers that he obtained the petition from Plaintiff himself, who disseminated copies in discovery and at depositions, and Plaintiff has not denied this allegation. Tellingly, Plaintiff took no steps to preserve the confidentiality of the petition when it entered the public record on August 20, 2004 as an attachment to Defendant City of Philadelphia's Motion for Summary Judgment. As such, we must deny Plaintiff's motion for a

protective order with respect to these documents.

Defendant's Motion to Dismiss on Estoppel Grounds

Defendant Luca moves to dismiss Counts I, II, V, VI, VII, and VIII against him, contending that Plaintiff's January 9, 2002 admission to the charge of simple assault precludes him from bringing these claims. Because Plaintiff's admission was in the context of a state court proceeding, this Court must apply Pennsylvania law to determine whether collateral estoppel may properly be applied. Edmunson v. Borough of Kennett Square, 4. F.3d 186, 189 (3rd Cir. 1993).

Under Pennsylvania law, a party must establish the following elements to invoke the defense of collateral estoppel: (1) The issue decided in the prior action is identical to one presented in the present action; (2) The prior action resulted in a final judgment on the merits; (3) The party against whom collateral estoppel is asserted was a party to the prior action, or is in privity with a party to the prior action; and (4) The party against whom collateral estoppel is asserted had a full and fair opportunity to litigate the issue in the prior action. Jones v. UPS, 214 F.3d 402, 405 (3rd Cir. 2000). The final two prongs of the Jones test are easily satisfied here. It is undisputed that Plaintiff Gregory Ehly was a party to the juvenile proceedings against him, and that he had a full and fair opportunity to litigate if he so desired. The second prong of the Jones test,

however, merits particular discussion in this matter.

It is a question of first impression before this Court whether a juvenile admission sufficient to support a preliminary finding of guilt, when followed by deferred adjudication dismissing all charges, qualifies as a final adverse judgment on merits for the purposes of collateral estoppel. We find that it does.

An "admission" before a Pennsylvania court is the juvenile equivalent of a guilty plea. In re A.M., 766 A.2d 1263, 1264 (Pa. Super. Ct. 2001). In Pennsylvania, a guilty plea constitutes an admission to all of the facts averred in the indictment for the purposes of estoppel. Ramsey v. Harley, No. 00-3909, 2002 U.S. Dist. LEXIS 12117 at 2, 2002 WL 32349129 (E.D. Pa. 2002) (citing Linnen v. Armainis, 991 F.2d 1102, 1105 (3rd Cir. 1993)). Following this logic, a juvenile who has entered an admission of guilt in delinquency proceedings should be precluded from bringing a later civil cause of action inconsistent with the admission.

The situation in the present action is somewhat complicated by the fact that the case appeared to resolve in Plaintiff's favor on February 8, 2002, when all charges of delinquency were dropped. However, the fact that Plaintiff's record was ultimately cleared because he complied with the conditions of probation in no way negates the fact that, on January 9, 2002,

Judge Gordon made a final judgment on the merits as to Plaintiff's guilt on the assault charge. Under the Pennsylvania Juvenile Act, a court which finds beyond a reasonable doubt that a child committed a criminal act is authorized to enter a finding of delinquency on the record and determine whether the child is in need of treatment, supervision, or rehabilitation. 42 Pa. C.S.A. § 6341(b). Had Judge Gordon not adjudged that Plaintiff was guilty of simple assault, he would have had no authority under § 6341(b) to sentence Plaintiff to a 30-day period of probation, or to reserve the power to impose a stricter sentence and enter a formal finding of delinquency at the conclusion of the 30-day period if Plaintiff misbehaved. Because the January 9, 2002 admission resulted in a final decision on the merits adverse to Plaintiff's interests, the defense of collateral estoppel may properly be raised in this matter.¹

This Court will grant Defendant Luca's Motion to Dismiss on grounds of collateral estoppel with respect to Counts II (unlawful arrest), V (malicious prosecution), and VI (false arrest), as the issue of whether Plaintiff admitted the charge of assault is dispositive with respect to these claims. To sustain a cause of action for these three claims, Plaintiff must show

¹ Plaintiff's pending Petition to Vacate his admission does not affect this Court's determination. A criminal judgment is deemed final for purposes of res judicata or collateral estoppel in a related civil case unless and until it is reversed on appeal. See State Farm Fire & Cas. Co. v. Bellina, 264 F. Supp. 2d 198, 207 (E.D. Pa. 2003); Shaffer v. Smith, 673 A.2d 872, 874 (Pa. 1996).

that Defendants lacked probable cause to arrest or prosecute him. Gatter v. Zappile, 67 F. Supp. 2d 515, 519 (E.D. Pa. 1999) (addressing probable cause in the context of state law claims for malicious prosecution and false arrest); Dowling v. Philadelphia, 855 F.2d 136, 141 (3rd Cir. 1988) (addressing probable cause in the context of § 1983 unlawful arrest claims). Pennsylvania follows the Restatement of Torts § 667(1) position that probable cause is conclusively established where there is a guilty plea or conviction, even if later overturned. Tarlecki v. Mercy Fitzgerald Hospital, No. 01-1347, 2002 U.S. Dist. LEXIS 12937 at 11, 2002 WL 1565568 (E.D. Pa. 2002) (citing McGriff v. Vidovich, 699 A.2d 797, 799-800 (Pa. Commw. Ct. 1997)). Probable cause for a § 1983 unlawful arrest claim is likewise established by guilty plea or conviction, although not where the conviction is later overturned. Howard v. Yock, No. 97-3102, 1998 U.S. Dist. LEXIS 6741 at 5, 1998 WL 227226 (E.D. Pa. 1998); Montgomery v. De Simone, 159 F. 3d 120, 125 (3rd Cir. 1998) (holding that the Restatement approach to probable cause contravenes the policies of the Civil Rights Act where the underlying conviction has since been overturned). Plaintiff's admission to the charge of simple assault, much like a guilty plea, conclusively establishes the existence of probable cause for arrest and prosecution. Therefore, Counts II, V, and VI must be dismissed.

Defendant may not, however, invoke collateral estoppel as to

Plaintiff's claims of excess force (Count I), unlawful arrest (Count II), assault (Count VII), and intentional infliction of emotional distress (Count VIII), because the first prong of the Jones test is not satisfied. A finding on the issue of whether Plaintiff assaulted Officer Luca is by no means determinative of, and is not necessary to, the resolution of these claims.

An appropriate order follows.

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v.	:	
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CITY OF PHILADELPHIA, <u>ET AL.</u> ,	:	
	:	
Defendants.	:	

ORDER

AND NOW, this 9th day of November, 2004, upon consideration of Defendant Police Officer Peter Luca's Motion in Limine to Dismiss Counts I - II and V - VIII of Plaintiff's Complaint and Exclude Evidence Inconsistent with Plaintiff's Admission (Doc. No. 48), Plaintiff Gregory Ehly's Countermotion for a Protective Order and Sanctions (Doc. No. 56), and all responses thereto (Docs. No. 56, 60), it is hereby ORDERED that:

(1) Plaintiff's Motion for a Protective Order and Sanctions is DENIED.

(2) Defendant Luca's Motion to Dismiss on the Ground of Collateral Estoppel is GRANTED with respect to Counts II, V, and VI, and DENIED with respect to Counts I, VII, and VIII.

(3) Defendant Luca's Motion to Exclude Evidence Inconsistent with Plaintiff's Admission that he Committed the Crime of Assaulting Police Officer Luca is DENIED.

BY THE COURT:

s/ J. Curtis Joyner
J. CURTIS JOYNER, J.