

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

ALVIN GRANT	:	CIVIL ACTION
	:	
	:	
v.	:	
	:	
	:	
BOROUGH OF DARBY, et al.	:	NO. 98-1206
	:	
O'Neill, J.	:	April , 1999

MEMORANDUM

Plaintiff Alvin Grant asserts various federal and state claims against the Borough of Darby, Officer William Sweeney, Officer Charles Dawson, and Constable David Kisela arising out of plaintiff's arrest on February 20, 1997. Specifically, plaintiff asserts claims pursuant to 42 U.S.C. § 1983 for violations of his rights under the Fourth and Fourteenth Amendments. Plaintiff also asserts state law claims for false arrest, false imprisonment, defamation, and abuse of process.

I have jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1367(a). Presently before me are defendants' motions for summary judgment pursuant to Rule 56(c) of the Federal Rules of Civil Procedure. For the reasons provided below, I will grant defendants' motions; judgment will be entered in favor of defendants and against plaintiff with respect to all claims.

I.

The essentially undisputed facts can be summarized as follows.¹ On February 20, 1997,

¹ Any minor factual disputes have been resolved in favor of plaintiff.

while driving north on Walnut Street in Darby Borough, plaintiff was pulled over by Officer Sweeney.² According to Officer Sweeney, he stopped plaintiff's vehicle because he had observed plaintiff committing a traffic violation. After receiving plaintiff's license, registration, and insurance card, Officer Sweeney returned to his vehicle to radio the Delaware County communications center for plaintiff's driving record and to check the warrant list --a list of the names of persons for whom arrest warrants had been issued in the Darby Borough area-- in his car.

From the communications center Officer Sweeney learned that the license plate displayed in the window of plaintiff's car was not the one that had been issued to plaintiff by the state. A check of plaintiff's driving record did not reveal any outstanding traffic citations.³

Officer Sweeney then observed that plaintiff's name appeared on the warrant list. As a result, he informed plaintiff that he was under arrest for outstanding warrants for more than \$1,000 in outstanding traffic citations from Sharon Hill Township. Plaintiff was then handcuffed by Officer Sweeney and taken into custody. At this point Officer Dawson arrived at the scene and joined in the arrest. Officer Dawson then transported plaintiff to the Darby Borough Police Station. Plaintiff

² It does not appear that plaintiff has alleged any constitutional violation involving the initial stop made by Officer Sweeney. Instead, plaintiff contends that this stop cannot provide a lawful basis for his arrest. Since defendants do not rely upon either the alleged traffic violation or the resulting stop, these events do not appear to be at issue in the present case.

In any event, the Fourth Amendment permits law enforcement officials to stop an automobile if the official has an articulable and reasonable suspicion that the vehicle or driver is traveling in violation of the law. Delaware v. Prouse, 440 U.S. 648, 663 (1979); United States v. Velasquez, 885 F.2d 1076, 1081 (3d Cir.1989), cert. denied, 494 U.S. 1017 (1990). When a police officer observes a traffic violation being committed, that officer clearly has more than an articulable and reasonable suspicion.

³ Though Officer Sweeney does not recall what information, if any, he received as to plaintiff's driving record, it is undisputed that that record does not list any outstanding warrants or citations and that it is Sweeney's custom to request the driving record of any motorist he stops.

repeatedly advised both officers that he had never been cited for any traffic violations in Sharon Hill and that they had arrested the wrong individual.

At the police station plaintiff was turned over to Constable Kisela, who had arrived from Sharon Hill with the actual arrest warrants. The warrants named “Alvin Grant” but listed an address and a date of birth different from plaintiff’s, though the year of birth was the same. Plaintiff again asserted that he was not the man named in the warrants. However, after speaking with plaintiff, Constable Kisela determined that plaintiff was in fact the subject of the outstanding warrants. He then crossed out the address and date of birth written on the one of the warrants and wrote plaintiff’s current address and correct date of birth in their place. Kisela told plaintiff that he was adding this information so that plaintiff would receive notice of the scheduled court hearing. Plaintiff then signed the warrants to indicate that he was pleading not guilty.

Shortly thereafter, plaintiff posted bail of \$550. He was released and then driven home by Constable Kisela. Plaintiff spent approximately two hours in police custody. At a hearing held on June 18, 1997, all charges against plaintiff were dismissed based on the inability of the Sharon Hill officer who issued the traffic citations to identify plaintiff as the individual he had stopped three years earlier.

II.

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 must state the basis for its motion and identify those portions of the record which it believes indicate the absence of any genuine issue of material fact. Celotex Corp. v. Catrett, 477 U.S. 317, 323 (1986). When the moving party does not bear the burden of persuasion at trial, as is the case here, it may properly support its motion merely by showing that there is an absence of evidence to support the non-moving party's case. Id. at 325.

In response to a properly supported motion for summary judgment, the non-moving party must point to specific facts demonstrating that a genuine issue for trial exists. Fed. R. Civ. P. 56(e). It may not rest upon unsupported allegations or denials. Id.; Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248-49 (1986). In order to demonstrate the existence of a genuine issue of material fact, the non-moving party must raise more than a "mere scintilla of evidence;" it must produce evidence on which a jury could reasonably find in its favor. Id. at 248, 252.

When considering a motion for summary judgment, a court must draw all reasonable inferences in the light most favorable to the non-moving party. Id. at 255. Moreover, a court may not consider the credibility or weight of the evidence in making its determination. Id.

III.

To establish a claim under 42 U.S.C. § 1983, a plaintiff must demonstrate that the challenged conduct violated a right secured by the Constitution or federal law and was committed by a person acting under color of state law. Groman v. Township of Manalapan, 47 F.3d 628, 633 (3d Cir. 1995). In the present case plaintiff asserts claims for violation of his rights under the Fourth and Fourteenth Amendments. No party disputes that all of the defendants are state actors. To decide defendants' motions for summary judgment, I must therefore determine whether there exists a

genuine issue of material fact as to whether any of the defendants deprived plaintiff of his constitutional rights.

Defendants have asserted the defense of qualified immunity. Qualified immunity shields government officials performing discretionary functions from civil liability “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). Accordingly, even if I conclude that one or more of the defendants violated plaintiff’s constitutional rights, I must determine as a matter of law whether defendants’ conduct was based upon an objectively reasonable, good faith belief that probable cause existed for plaintiff’s arrest and detention.⁴ 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 indicia of probable cause or if a reasonably well-trained officer, with knowledge of the information available to the defendant, would have believed that he had probable cause to arrest and detain the plaintiff under the circumstances. Doherty v. Haverkamp, 1997 WL 297072, *7 (E.D. Pa. May 28, 1997), citing Orsatti 71 F.3d at 483. Qualified immunity “gives ample room for mistaken judgments” by protecting “all but the plainly incompetent or those who knowingly violate the law.” Malley v. Briggs, 475 U.S. 335, 341, 343 (1986).

I will first analyze plaintiff’s § 1983 claim for violation of his Fourth Amendment rights.

⁴ As discussed infra, whether defendants in fact violated the Fourth Amendment also depends upon the reasonableness of their good faith belief that probable cause existed for plaintiff’s arrest and detention, i.e their mistaken belief that plaintiff was the person named in the arrest warrant.

The Fourth Amendment prohibits only unreasonable searches and seizures.⁵ It “does not guarantee that only the guilty will be arrested.” Baker v. McCollan, 443 U.S. 137, 145 (1979). An officer making an arrest pursuant to a facially valid warrant has no obligation “to investigate independently every claim of innocence, whether the claim is based on mistaken identity,” or otherwise. Id. at 145-46. “Nor is the official charged with maintaining custody of the accused required by the Constitution to perform an error-free investigation of such a claim.” Id. at 146. It is the responsibility of the judge and the jury to make the ultimate determination of an individual’s guilt or innocence.

The arrest of a person mistakenly believed to be another is valid under the Fourth Amendment 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 (1971); United States v. Glover, 725 F.2d 120, 122 (D.C. Cir. 1984).

Probable cause to arrest an individual exists “when the facts and circumstances within the arresting officer’s knowledge are sufficient in themselves to warrant a reasonable person to believe that an offense has been or is being committed by the person to be arrested.” Orsatti, 71 F.3d at 483. Since an arrest warrant requires a judicial finding of probable cause, an arrest pursuant to a facially valid warrant generally satisfies the requirements of the Fourth Amendment. Doherty, 1997 WL 297072 at *6. However, if the warrant was obtained with knowledge of the falsity of the underlying facts which allegedly establish proximate cause or with reckless disregard for the truth of such facts,

⁵ The Supreme Court has held that § 1983 claims alleging the violation of a plaintiff’s constitutional rights while he is under arrest should be analyzed under the Fourth Amendment. Graham v. Connor, 490 U.S. 386, 395 (1989); Albright v. Oliver, 510 U.S. 266, 273-75 (1994). Accordingly, I have treated plaintiff’s claims as arising primarily under the Fourth Amendment.

The Fourth Amendment is applicable to the states by virtue of the Fourteenth Amendment. Mapp v. Ohio, 367 U.S. 643, 654-55 (1961).

an arrest pursuant thereto may violate the Fourth Amendment. Lippay v. Christos, 996 F.2d 1490, 1502 (3d Cir. 1993), citing Franks v. Delaware, 438 U.S. 154 (1978).

A subjective, good-faith belief that the individual arrested was another would not by itself justify a mistaken arrest. Hill, 401 U.S. at 804. To survive Fourth Amendment scrutiny, the arrest of the wrong individual must also be “a reasonable response to the situation facing [the arresting officers] at the time” under the totality of the circumstances. Id.; see also Glover, 725 F. 2d at 122. When determining whether an arresting officer acted reasonably, courts must remember that “sufficient probability, not certainty, is the touchstone of reasonableness under the Fourth Amendment.” Hill, 401 U.S. at 804.

Since plaintiff challenges neither the validity of the warrants nor the manner in which they were obtained, defendants clearly had probable cause to arrest the “Alvin Grant” named therein. At issue in this case, therefore, is whether defendants’ belief that plaintiff was the individual named in those warrants was reasonable.

The Seventh Circuit has analyzed the reasonableness of a mistaken arrest under circumstances very similar to those alleged in the present case. In Patton v. Przybylski, the Seventh Circuit affirmed the dismissal of a § 1983 claim for false arrest, holding that the police officer’s decision to arrest the plaintiff had been reasonable under the circumstances. 822 F.2d 697, 699-700 (7th Cir. 1987). As in the case at hand, the officer had executed an arrest warrant against the wrong individual after a routine traffic stop. Id. at 698. The plaintiff had the same name as the man listed in the warrant. Id. Though the plaintiff’s address and birth date were different from those of the man named in the warrant, the year of birth was the same. Id. at 700. In Johnson v. Miller the Seventh Circuit held that a police officer acted reasonably in executing a warrant against the wrong

individual, even though the plaintiff was not of the same race as the woman named in the arrest warrant and was rearrested after being released following the first mistaken arrest. 680 F.2d 39, 41-2 (7th Cir. 1982). The court emphasized the practical dilemma facing police officers stating that “[i]f an officer executing an arrest warrant must do so at peril of damage liability under section 1983 if there is any discrepancy between the description in the warrant and the appearance of the person to be arrested, many a criminal will slip away while the officer anxiously compares the description in the warrant with the appearance of the person named in it and radios back any discrepancies to his headquarters for instructions.” Id. at 41.

In the present case there was a “sufficient probability” that plaintiff was the man named in the arrest warrants. Defendants Sweeney and Dawson knew that an arrest warrant had been issued for an individual with the same name as plaintiff. Further adding to their suspicions was the fact that plaintiff’s car bore a license tag different from the one issued to him by the state. Since plaintiff had been stopped while driving, defendants had no assurance that they would be able to locate him again easily.

When defendant Kisela arrived with the actual warrants, defendants became aware that plaintiff’s address was different from that listed in the warrants. However, given the relative frequency with which many individuals change residence, such a discrepancy cannot carry great weight. Though the day and month of birth listed on the warrants were also different from plaintiff’s, the year of birth was the same. Besides these minor discrepancies, the only evidence available to defendants which suggested that plaintiff was not the “Alvin Grant” named in the warrant was the fact that a check of his driving record revealed no outstanding traffic citations. The existence of the warrants, however, constituted ample evidence to the contrary.

Plaintiff offers no evidence of bad faith on the part of defendants.⁶ Based on the totality of the circumstances, no reasonable finder of fact could infer that defendants acted unreasonably in arresting plaintiff. Since defendants had probable cause to arrest “Alvin Grant” and reasonably believed plaintiff was the person sought, plaintiff’s arrest did not violate the Fourth Amendment.⁷

I now turn to plaintiff’s remaining § 1983 claim alleging violations of his rights under the Fourteenth Amendment. Although prolonged detention pursuant to a valid warrant but in the face of repeated protests of mistaken identity may, under certain circumstances, constitute a deprivation of liberty without due process of law, a detention of approximately two hours cannot amount to such a deprivation. See Baker, 443 U.S. at 145 (detention for a period of three days pursuant to a valid warrant and despite repeated claims of mistaken identity does not violate an individual’s constitutional rights). As a result, plaintiff’s § 1983 claim for alleged violations of the Fourteenth Amendment must also fail. Since plaintiff has suffered no constitutional injury at the hands of any individual police officer, he cannot have a viable § 1983 claim against the Borough of Darby. See

⁶ Plaintiff contends that defendant Kisela altered one of the warrants in order “to make it appear that the defendants had arrested the Alvin grant set forth in the Warrant.” Compl. ¶25. However, plaintiff admitted at his deposition that Kisela had told him that he was adding plaintiff’s birth date and address to one of the warrant so that plaintiff would receive notice of the scheduled court hearing. Plaintiff also acknowledged that he has no information that Kisela intended to mislead anyone by inserting this information. Moreover, the original birth date and address were crossed out on only one warrant and with only a single line, thus remaining clearly visible.

Plaintiff also alleges that defendant Dawson had previously stopped him for traffic violations and thus knew him. Even if true, however, plaintiff does not explain how this fact demonstrates that Dawson therefore ‘knew’ that plaintiff was not the “Alvin Grant” named in the warrant.

⁷ Alternatively, I find that defendants’ conduct was based upon an objectively reasonable, good faith belief that probable cause existed for plaintiff’s arrest and detention and that they are therefore entitled to qualified immunity.

City of Los Angeles v. Heller, 475 U.S. 796, 799 (1986).

IV.

A federal court should ordinarily decline to exercise supplemental jurisdiction over state law claims when it has dismissed all claims over which it has original jurisdiction. Kis v. County of Schuylkill, 866 F. Supp. 1462 (E.D. Pa. 1994), citing United Mine Workers v. Gibbs, 383 U.S. 715, 726 (1966). That decision, however, remains discretionary. See 28 U.S.C. § 1367(a), (c); New Rock Asset Partners L.P. v. Preferred Entity Advancements, Inc., 101 F.3d 1492, 1505 (3d Cir. 1996). In the present case considerations of judicial economy and efficiency weigh in favor of this Court's exercise of supplemental jurisdiction. Accordingly, I will retain jurisdiction over plaintiff's state law claims.

Since I have concluded that defendants' acted lawfully in arresting and detaining plaintiff, plaintiff's state law claims for false arrest and false imprisonment cannot survive defendants' motions for summary judgment. See Gilbert v. Feld, 842 F. Supp. 803, 821 (E.D. Pa. 1993) (arrest and detention must be unlawful in order to give rise to claim for false arrest or false imprisonment under Pennsylvania law).

Defendants are also entitled to summary judgment with respect to plaintiff's state law claims for defamation and abuse of process. Under Pennsylvania law, the statute of limitations for defamation is one year. 42 Pa. C.S.A. § 5523(1). Plaintiff alleges that defendants made defamatory statements at the time of his arrest on February 20, 1997 "and on several occasions thereafter". However, he offers no evidence of any statements made by defendants after his arrest. Plaintiff appears to contend that the defamatory statements originally made by defendants at the arrest were

repeated, though not by the defendants themselves, during subsequent criminal proceedings. Under Pennsylvania law, however, any statements made in the course of, or pertinent to, any stage of judicial proceedings are absolutely immune from liability for defamation. Lohman v. Township of Oxford, 816 F. Supp. 1025, 1030 (E.D. Pa. 1993), citing Pawloski v. Smorto, 403 Pa. Super. 71, 80-1, 88 A.2d 36, 41 (1991). Since plaintiff did not file his complaint until March 1998, more than one year after the alleged defamation, his state law claim is barred by the applicable statute of limitations. ⁸ A

⁸ As alternative grounds for granting summary judgment for defendants with respect to plaintiff's claim for defamation, I find that plaintiff has failed to offer evidence of any defamatory conduct. Moreover, plaintiff admitted at his deposition that he did not recall any of the defendants making any of the defamatory statements alleged in the complaint.

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ORDER

AND NOW this day of April, 1999, upon consideration of defendants' motions for summary judgment and plaintiff's response thereto, it is hereby ORDERED that defendants' motions are GRANTED and judgment is entered in favor of defendants the Borough of Darby, Officer William Sweeney, Officer Charles Dawson, and Constable David Kisela and against plaintiff Alvin Grant.

THOMAS N. O'NEILL, JR. J.

party alleging abuse of process must prove three elements: “(1) an ‘abuse’ or ‘perversion’ of process already initiated (2) with some unlawful or ulterior purpose, and (3) harm to the plaintiff as a result.” Kedra v. Nazareth Hosp., 868 F. Supp. 733, 738 (E.D. Pa. 1994), citing Shaffer v. Stewart, 326 Pa. Super. 135, 138-39, 473 A.2d 1017, 1019 (1984). In the present case there is no evidence that defendants committed “an abuse or perversion of process” or had any “unlawful or ulterior purpose”. Indeed, I have already concluded that plaintiff’s arrest and detention were lawful and that defendants actions with respect to this incident were objectively reasonable.

Since no genuine issue remains for trial and defendants are entitled to judgment as a matter of law on all claims, I will grant defendants’ motion for summary judgment.