UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

MADELINE MENDOZA, Plaintiff, v. REYNALDO GUEVARA, et al, Defendants.	)	Case No. 23-cv-2441 Honorable Judge Durkin

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MARILYN MULERO, Plaintiff, v. REYNALDO GUEVARA, et al, Defendants.	)	Case No. 23-cv-14795 Honorable Judge Durkin

DEFENDANTS' REPLY IN SUPPORT OF THEIR PARTIAL MOTION TO DISMISS

Before the Court are two discrete issues. First, does a plaintiff who pled guilty in her original criminal case raise a Fourteenth Amendment due process claim alleging fabrication of evidence? Second, as to Plaintiff Mendoza alone, did she adequately allege that her guilty plea was involuntary? The answer to both those questions is no.

I. Under *Patrick*, Plaintiffs Who Pled Guilty Cannot Possess Viable Fabricated Evidence Claims

In their Motion, Defendants explained how *Patrick v. City of Chicago*, 974 F.3d 824 (7th Cir. 2020), established that to succeed on a due process fabrication claim, the allegedly false evidence must be used against the plaintiff at trial. Thus, because Plaintiffs here had pleaded guilty, and waived their rights to a trial, the claim fails.

Plaintiffs argue that Defendants overread *Patrick*. But the court in *Patrick* was clear and explained that a fabrication claim is moored in the right to a fair trial. "The essence of a due-process evidence-fabrication claim is that the accused was convicted and imprisoned based on knowingly falsified evidence, **violating his right to a fair trial** and thus depriving him of liberty without due process." *Patrick*, 974 F.3d at 835 (emphasis added). A plaintiff who pleads guilty and bypasses a trial does not have a due process claim for fabrication. *See Tinney v. Richland Cnty.*, 678 F. App'x 362, 367 (6th Cir. 2017) (holding that the plaintiff who pleaded guilty is barred from bringing a due process fabrication of evidence claim), *abrogated on other grounds by Crabbs v. Scott*, 880 F.3d 292 (6th Cir. 2018).

Plaintiffs cite many district court decisions to prove that Defendants' interpretation of *Patrick* is wrong. However, only one of those decisions was issued after *Patrick*: *In re Watts Coordinated Pretrial Proceedings*, No. 19-CV-1717, 2022 WL 9468253 (N.D. Ill. Oct. 14, 2022). Defendants have already addressed why this Court should reject the reasoning in *Watts*, but notably, even the *Watts* court admitted its ruling on this issue was "a close call." (Mot. at 8). And, of course, that court's decision is not binding on this Court. *Stevens v. Oval Office, LLC*, No. 16-C-1419, 2016 WL 7480384, at *3 (E.D. Wis. Dec. 29, 2016).

Moreover, Plaintiffs are not without other avenues of relief. *See Tinney*, 678 F. App'x at 367 ("cases involving guilty pleas deal with constitutional rights other than the due process clause") (citation and internal quotation marks omitted). They can (and do) raise malicious prosecution claims under federal and state law in which they may argue that charges were wrongfully initiated against them as the result of fabricated evidence. *See, e.g.*, *Thompson v. Clark*, 142 S. Ct. 1332, 1337 (2022) (recognizing "a Fourth Amendment claim under § 1983 for malicious prosecution, sometimes referred to as a claim for unreasonable seizure pursuant to

legal process" for "the wrongful initiation of charges without probable cause"); *Coleman v. City of Peoria, Ill.*, 925 F.3d 336 (7th Cir. 2019) (plaintiff brought a state law claim alleging that there was no probable cause to prosecute because of falsified evidence and tainted identifications).

The Supreme Court has held, "if the [probable cause] proceeding is tainted—…by fabricated evidence—and the result is that probable cause is lacking, then the ensuing pretrial detention violates the confined person's Fourth Amendment rights." *Manuel v. City of Joliet, Ill.*, 580 U.S. 357, 369 n.8 (2017). The dividing line between the Fourth Amendment malicious prosecution claim and a due process fabrication claim is the trial. "[O]nce a trial has occurred, the Fourth Amendment drops out: A person challenging the sufficiency of the evidence to support both a conviction and any ensuing incarceration does so under the Due Process Clause of the Fourteenth Amendment." *Id*. Here, the lack of a trial means that Plaintiffs' constitutional wrong for the fabrication of evidence sounds in the Fourth Amendment.

Accordingly, Plaintiffs do not have a due process claim for fabrication of evidence, but instead must pursue relief through malicious prosecution claims.

II. Mendoza Fails to Allege that Her Guilty Plea Was Unknowing or Involuntary

As to Mendoza alone, Defendants also argued in their Motion that, because she failed to allege that her guilty "plea lacked knowing or voluntariness, lack of causation requires dismissal." (Mot. at 10.) Mendoza argues that Defendants' causation argument was rejected in *Watts*, and that, despite Mendoza having failed to state in her pleadings that her plea was unknowing or involuntary, the plea was, in fact, just that. (*See* Resp. at 12–14.)

Initially, Mendoza is correct to say that *Watts* rejected Defendants' causation argument. (*Id.* at 12.) Indeed, Defendants told the Court as much in their Motion. (*See* Mot. at 11–12.) Defendants also explained to the Court *why* this contention failed in *Watts*: that court did not

reject Defendants' position that a voluntary plea necessarily breaks the causal chain, but rather, it very narrowly found that the court lacked sufficient factual information to determine whether the plea was voluntary enough to satisfy that standard. (*Id.* at 12.) In other words, the *Watts* court implicitly agreed with Defendants' legal position, only to then misapply the Rule 12(b)(6) standard to reward a facially deficient complaint. (*See id.* at 12–13.)

Mendoza argues that her "vacated plea was invalid and neither knowing nor voluntary ***because*** it was tainted by Defendants' fabrications." (Resp. at 14 (emphasis added).) That allegation, however, is not present anywhere in Mendoza's Complaint. Instead, it is an inference she hopes the Court will draw to shepherd her deficient pleading past Rule 12(b)(6). As Defendants explained in their Motion, if the allegedly fabricated nature of the evidence caused Mendoza to plea without knowledge or voluntariness, she needed to put that causal allegation in her Complaint. (*See* Mot. at 12 (discussing *Bldg. Owners & Managers Ass'n of Chicago v. City of Chicago*, 513 F. Supp. 3d 1017, 1011 (N.D. Ill. 2021) (Durkin, J.)).) Mulero did just that; Mendoza did not.

Mendoza looks to *United States v. Thompson*, 89 F.4th 1010, 1022 (7th Cir. 2024), which stands for the unremarkable proposition that a settlement agreement, which arose from a lending arrangement gone wrong, was a foreseeable outcome of a repayment scheme that was previously agreed-to between a borrower and the FDIC. (*See* Resp. at 11–12.) This notion—merely a broad principle of generic causation—has no bearing whatsoever on black letter Supreme Court law holding that "a guilty plea represents a break in the chain of events which has preceded it in the criminal process." *Tollett v. Henderson*, 411 U.S. 258, 267 (1973).

Finally, Mendoza makes an argument about preclusion doctrines, but Defendants are *not* arguing that Mendoza's guilty plea works collateral estoppel or *res judicata* upon her fabricated

evidence claim. Defendants are arguing only that Mendoza's guilty plea, which has been pled as factual matter to be considered in a motion to dismiss, broke the causal chain that led to the injuries Mendoza allegedly suffered as a result of purportedly fabricated evidence. It is that break in the causal chain that nixes the claim's viability as a matter of tort law—not any construction of the preclusion doctrines. The Court need waste no time on this facially irrelevant argument.

CONCLUSION

WHEREFORE, Defendants respectfully request that the Court dismiss Plaintiffs' fabricated evidence claims, with prejudice.

Dated: February 2, 2024

RESPECTFULLY SUBMITTED,

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CERTIFICATE OF SERVICE

I certify that on February 2, 2024, I electronically filed the foregoing **Defendants' Reply in Support of Their Partial Motion to Dismiss,** with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following CM/ECF participants listed in the below service list:

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