IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

SAMUEL GONZALEZ, Plaintiff, v. VILLAGE OF SUMMIT, ILLINOIS, SUMMIT POLICE OFFICERS DONATO #155 and PASQUEL, #310, Defendants.	)	Case No. 24-cv-11448 Honorable Chief Judge Virginia M. Kendall

DEFENDANTS' REPLY BRIEF IN SUPPORT OF THEIR MOTION FOR SUMMARY JUDGMENT

NOW COMES Defendants, Village of Summit, Illinois, Summit Police Officers Donato and Pasquel, by their attorneys, Odelson, Murphey, Frazier & McGrath, Ltd., and for their Reply in Support of their Motion for Summary Judgment, state as follows:

I. PLAINTIFF'S RULE 56.1 RESPONSES AND ADDITIONAL FACTS FAIL TO CREATE A GENUINE DISPUTE

Plaintiff's Rule 56.1 Additional Statement of Facts and response to Defendants' Rule 56.1(b)(2) Statement of Facts fail to create a genuine dispute of material fact. As reflected in Defendants' responses, Plaintiff relies almost exclusively on selectively excerpted still images derived from a brief portion of dash-camera footage to invite inference, recharacterize testimony, and suggest disputes that disappear when the record is viewed as a whole. The still-frame excerpts omit audio, temporal continuity, and surrounding context and therefore do not accurately reflect the circumstances confronting the officers or undermine their contemporaneous observations. Local Rule 56.1 does not permit a party to manufacture factual disputes through edited evidence or argumentative characterizations untethered from the full evidentiary record. Plaintiff's

additional facts do not contradict the undisputed evidence that he aggressively approached Officer Pasquel, issued explicit verbal threats, refused commands, and physically resisted officers — conduct that independently establishes probable cause as a matter of law.

Second, Plaintiff repeatedly objects that certain facts are "not material" because the officers allegedly were not aware of them at the moment of arrest (see, e.g., Dkt. 33, Pl. Resp. ¶ 4). This objection is misplaced. Probable cause is assessed based on the facts known to the officers at the time, and Defendants' Statement of Facts expressly relies on the officers' contemporaneous observations and Plaintiff's conduct in their presence. *Holmes v. Vill. of Hoffman Estates*, 511 F.3d 673, 679 (7th Cir. 2007). Plaintiff's attempt to exclude admitted conduct on "materiality" grounds is a legal argument, not a factual dispute, and must be disregarded under Local Rule 56.1.

Third, Plaintiff admits the core facts establishing probable cause: multiple 911 calls reporting suspicious door-to-door activity; Plaintiff's aggressive approach toward Officer Pasquel; repeated verbal threats including "I'm going to f*** you up"; refusal to comply with Officer Donato's commands; fixation on Pasquel; and physical resistance during handcuffing. (Dkt. 33, Pl. Resp. ¶¶ 7-23). These admissions alone establish probable cause for assault of a peace officer, obstruction, and resisting arrest under Illinois law, regardless of any later-acquired information or Plaintiff's benign explanation for his earlier door knocking.

Fourth, Plaintiff's Additional Statement of Facts does not create a triable issue. The additional facts largely concern Plaintiff's subjective intent, his asserted reasons for knocking on doors, or post-arrest events such as hospitalization, parole decisions, and ultimate acquittal. None of these facts negate probable cause at the time of the arrest. *Devenpeck v. Alford*, 543 U.S. 146, 153 (2004). Nor do they support malice, fabrication, or improper influence over the prosecution.

Finally, Plaintiff's emphasis on his acquittal and voluntary mental health treatment is legally irrelevant. A not-guilty finding does not retroactively vitiate probable cause. *Williams v. Jaglowski*, 269 F.3d 778, 782 (7th Cir. 2001). Voluntary hospitalization, particularly after suicidal ideation, does not constitute a Fourth Amendment deprivation of liberty attributable to Defendants. *Sneed v. Rybicki*, 146 F.3d 478, 481 (7th Cir. 1998).

In short, Plaintiff's Rule 56.1 submissions confirm rather than contradict Defendants' account. At most, Plaintiff offers alternative characterizations of undisputed conduct, which is insufficient to defeat summary judgment. *Logan v. City of Chicago*, 4 F.4th 529, 536 (7th Cir. 2021).

II. PLAINTIFF FAILS TO CREATE A GENUINE ISSUE OF MATERIAL FACT AS TO PROBABLE CAUSE

Plaintiff's federal claims rise or fall on the existence of probable cause. The existence of probable cause is defense to both the Fourth Amendment and malicious prosecutions claims made by the Plaintiff. *Washington v. City of Chicago*, 98 F.4th 860, 863 (7th Cir. 2024). For probable cause to exist, the Officers only needed a *reasonable belief* that Plaintiff committed a crime. *Abbott v. Sangamon Cnty., Ill.,* 705 F.3d 706, 714 (7th Cir. 2013) (emphasis added). The probable-cause standard inherently allows room for reasonable mistakes and is cognizant that police officers often operate in rapidly unfolding and chaotic circumstances. *Id.*

As set forth in Defendants' opening brief, probable cause exists when the facts and circumstances known to the officers would warrant a reasonable belief that the suspect had committed, was committing, or was about to commit a crime. *Holmes v. Vill. of Hoffman Estates*, 511 F.3d 673, 679 (7th Cir. 2007). It is an objective inquiry that does not require proof sufficient to sustain a conviction and does not require officers to rule out innocent explanations. *Woods v. City of Chicago*, 234 F.3d 979, 996 (7th Cir. 2000); *Devenpeck v. Alford*, 543 U.S. 146, 153 (2004).

Plaintiff does not dispute the core facts establishing probable cause. On June 23, 2023, Officers Donato and Pasquel were dispatched in response to multiple 911 calls reporting a male in a red baseball cap knocking on numerous doors. (Dkt. 26, DSOF ¶¶ 4-7). Plaintiff admits he knocked on well over 200 doors. (*Id.* ¶ 4). Upon arrival, Plaintiff aggressively approached Officer Pasquel's squad car, shouted obscenities, and threatened, "I'm going to f*** you up." (*Id*. ¶¶ 8-9). Officer Donato observed Plaintiff advancing toward Pasquel, ignoring repeated commands, and behaving in a manner that caused Donato to reasonably believe Plaintiff was about to harm Pasquel. (*Id.* ¶¶ 10-14).

These undisputed facts establish probable cause for at least assault of a peace officer, which under Illinois law includes conduct placing another in reasonable apprehension of receiving a battery. *See* 720 ILCS 5/12-1(a). They also establish probable cause for obstruction and resisting arrest, as Plaintiff repeatedly refused lawful commands and physically pulled his arm away during handcuffing. (Dkt. 26, DSOF ¶¶ 13-14, 21); *Abbott v. Sangamon Cnty.*, 705 F.3d 706, 713-14 (7th Cir. 2013).

Plaintiff's opposition improperly reframes probable cause as a credibility determination for the jury. But where, as here, the material facts are undisputed and support probable cause, summary judgment is appropriate. *Morfin v. City of E. Chicago*, 349 F.3d 989, 997 (7th Cir. 2003). Plaintiff's later acquittal does not retroactively negate probable cause. *Williams v. Jaglowski*, 269 F.3d 778, 782 (7th Cir. 2001).

III. PLAINTIFF'S MALICIOUS PROSECUTION CLAIMS FAIL AS A MATTER OF LAW

A. Probable Cause is a Complete Defense

Probable cause is a complete defense to both federal and Illinois malicious prosecution claims. *Holmes*, 511 F.3d at 682; *Ross v. Mauro Chevrolet*, 369 Ill. App. 3d 794, 800 (1st Dist.

2006). For probable cause to exist, the Officers only needed a *reasonable belief* that Plaintiff committed a crime. *Abbott v. Sangamon Cnty., Ill.,* 705 F.3d 706, 714 (7th Cir. 2013) (emphasis added). Because probable cause existed for Plaintiff's arrest and charging, Plaintiff cannot satisfy an essential element of either claim of malicious prosecution.

B. Plaintiff Cannot Establish Malice or Improper Purpose

Illinois law requires proof that defendants acted with malice, meaning a purpose other than bringing an offender to justice. *Fabiano v. City of Palos Hills*, 336 Ill. App. 3d 635, 642 (1st Dist. 2002). Plaintiff offers no evidence of malice, fabrication, or improper motive. To the contrary, the undisputed evidence shows officers responded to resident complaints, observed threatening conduct, and acted to protect public and officer safety. Plaintiff's own statements, boasting that he "did this on purpose" and anticipated a "$250,000 payday," underscore that his prosecution resulted from his conduct, not from malice by Defendants. (Dkt. 26, DSOF ¶ 23).

C. Plaintiff Cannot Establish a Constitutional Deprivation of Liberty

Plaintiff's § 1983 malicious prosecution claim independently fails because he cannot show a deprivation of liberty of constitutional magnitude. Brief detention, release on bond, and prosecution do not suffice. *Sneed v. Rybicki*, 146 F.3d 478, 481 (7th Cir. 1998); *Spiegel v. Rabinovitz*, 121 F.3d 251, 256 (7th Cir. 1997). Plaintiff was released on an I-Bond, voluntarily admitted himself for treatment, and was not restrained or under police supervision during his inpatient care. (Dkt. 26, DSOF ¶¶ 29-33). Such circumstances do not support a Fourth Amendment malicious prosecution claim. *Kies v. City of Aurora*, 156 F. Supp. 2d 970, 979 (N.D. Ill. 2001).

D. Favorable Termination Does Not Imply Innocence

Plaintiff's acquittal following a bench trial does not establish malicious prosecution. A favorable termination must be indicative of innocence, not merely a failure of proof. *Swick v.*

Liautaud, 169 Ill. 2d 504, 512 (1996). Nothing in the record suggests Plaintiff was exonerated; the undisputed evidence of his aggressive and threatening behavior precludes any inference that the prosecution was unfounded.

IV. PLAINTIFF MISSTATES THE SUMMARY JUDGMENT STANDARD

Plaintiff repeatedly asserts that any factual dispute precludes summary judgment. That is incorrect. Summary judgment is appropriate where alleged disputes are not material or where no reasonable jury could find for the nonmovant. *Logan v. City of Chicago*, 4 F.4th 529, 536 (7th Cir. 2021); *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986). Plaintiff's disagreements concern the legal significance of undisputed facts, not the facts themselves.

A. Qualified Immunity Provides an Independent Basis for Judgment

Even if probable cause were debatable, Officers Donato and Pasquel are entitled to qualified immunity because at minimum they had arguable probable cause. "Qualified immunity balances two important interests – the need to hold public officials accountable when they exercise power irresponsibly and the need to shield officers from harassment, distraction, and liability when they perform their duties reasonably." *Pearson v. Callahan*, 555 U.S. 223 (2009). *Pearson* appears to contemplate the exact type of harassment Plaintiff projected on Officers Donato and Pasquel in this matter. Additionally, Plaintiff cites no clearly established law that would have put every reasonable officer on notice that arresting Plaintiff under these circumstances was unlawful. Qualified immunity therefore bars Plaintiff's federal claims.

CONCLUSION

WHEREFORE, for the foregoing reasons Defendants Village of Summit, Officers Donato and Pasquel respectfully request this Honorable Court enter summary judgment in their favor and against Plaintiff, and award them any further relief this Court deems just and appropriate.

Respectfully Submitted,

THE VILLAGE OF SUMMIT, OFFICER DONATO (#155) and OFFICER PASQUEL (#310)

By: */s/ Kelly A. Krauchun*
One of their attorneys

Michael J. McGrath- MMcGrath@omfmlaw.com
Kelly A. Krauchun - kkrauchun@omfmlaw.com
ODELSON, MURPHEY, FRAZIER & MCGRATH, LTD.
3318 W. 95th St.
Evergreen Park, IL 60805
(708) 424-5678