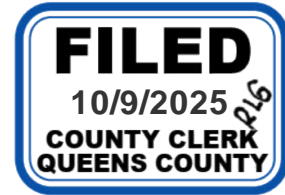


Bostick v City of New York
2025 NY Slip Op 35319(U)
September 7, 2025
Supreme Court, Queens County
Docket Number: Index No. 721708/2020
Judge: Chereé A. Buggs
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This opinion is uncorrected and not selected for official publication.

Short Form Order

NEW YORK SUPREME COURT-QUEENS COUNTY



Present: HONORABLE CHEREÉ A. BUGGS
Justice

IAS PART 30

-----X
TERREL BOSTICK,

Index No.:721708/2020

Motion Date: July 14, 2025

Plaintiff,

Motion Cal. No.: 4

-against-

Motion Sequence No.: 4

THE CITY OF NEW YORK, POLICE OFFICER NUMAEL
AMADO, SHIELD No.9643, AND "john does"- Police
Officers Yet Unidentified,

Defendants.

-----X

The following efiled papers numbered EF 58-83 submitted and considered on this motion by defendants THE CITY OF NEW YORK and NUMAEL AMADOR (collectively referred to as "City") seeking an order pursuant to CPLR 3212 granting summary judgment on the plaintiff's TYRELL BOSTICK (hereinafter "Plaintiff") causes of action for federal false arrest/ federal false imprisonment as there was probable cause to arrest and detain and because Amador is entitled to qualified immunity; as to Plaintiff's cause of action for negligent hiring, training, supervision because officers were acting within the scope of their employment together with such other and further relief as this Court deems just and proper.

The motion is **granted** in its entirety as set forth herein.

	<u>Papers Numbered</u>
Notice of Motion-Aff in Supp-Exhibits.....	EF 58-76
Aff. In Opp- Exhibits.....	EF 77-80
Aff. In Reply.....	EF 82-83

Relevant Factual and Relevant Procedural Background

This lawsuit stems from the personal injuries, including a fractured rib, allegedly sustained by the Plaintiff as a result of his arrest on December 26, 2019 at or about the intersection of Brookhaven Avenue and Caffrey Avenue in the County of Queens and State of New York. The Complaint alleges causes of action sounding in false arrest; false imprisonment; negligent hiring, training and supervision; assault; battery; intentional infliction of emotional distress; malicious prosecution; and civil rights violations.

Plaintiff alleges he intended to go to the supermarket on December 26, 2019, turned on his left turn signal and exited the street parking. He approached and stopped at a stop sign, turned his left turn signal on again and turned left. He approached a second stop sign, turned his left turn signal on again and proceeded to turn left when he observed the flashing lights and sirens of an unmarked vehicle behind him. In response, Plaintiff proceeded to pull over to the left at the first available spot. Body camera footage demonstrates that approximately three officers initially approached the vehicle. Defendant Amador requested Plaintiff's license and registration, and Plaintiff requested clarification on why he was pulled over. Amador can be heard on the body camera footage alleging that the Plaintiff failed to signal before exiting a parking spot. Plaintiff provided his license and registration and in response Amador directed the Plaintiff to step out of the vehicle. With what appears to be confusion on his face, Plaintiff sought clarity on the directions he was given and Amador in quick succession directed Plaintiff to step out of the vehicle repeatedly. Thereafter, Amador opened the Plaintiff's door and several hands can be seen grabbing at Plaintiff who can be heard stating that he was attempting to come out, notifying officers that his wallet fell on the ground, motioning to the ground and advising that he has limited use of his left arm due to being shot in the past. Officers can be seen pulling Plaintiff out of his car and on to the ground where he is placed under arrest. Ultimately, two officers are observed searching through Plaintiff's car as Plaintiff can be heard and seen objecting to the treatment he is receiving. Subsequently, Plaintiff was brought to the 101st Precinct where he was neither fingerprinted nor photographed, but placed in a holding cell for several hours. Plaintiff was released with two tickets, one for a moving violation and one for obstructed view¹. Both tickets were dismissed. Plaintiff filed a complaint with the Civilian Complaint Review Board and a review of the deposition transcripts indicates that Plaintiff's claim against Amador regarding physical force were substantiated, this Court agrees with that assessment.

Now, the City seeks dismissal of Plaintiff's claims sounding in federal false arrest; federal false imprisonment; and negligent hiring, retention and supervision.

Plaintiff submitted partial opposition as to the City's motion to dismiss his false arrest and false imprisonment claim but concedes that the officers were acting within the scope of their employment and does not object to the dismissal of his negligent hiring, retention and supervision claim.

Law and Application

"The proponent of a summary judgment motion must make a prima facie showing of entitlement to judgment as a matter of law, tendering sufficient evidence to demonstrate the absence of any material issues of fact." (*See Morejon v. New York City Tr Auth.*, 216 AD3d 134, 136 [2dDept 2023]; citing *Alvarez v. Prospect Hosp.*, 68 NY2d 320, 324 [1986]; *Winegrad v. New York Univ. Med. Ctr.*, 64 NY2d 851, 853 [1985]). Once a prima facie showing has been made, however, "the burden shifts to the party opposing the motion for summary judgment to produce evidentiary proof in admissible form, sufficient to establish the existence of material issues of fact

¹ A review of the body camera footage reveals plaintiff had several air fresheners hanging from his rearview mirror.

which require a trial of the action”. (See *Alvarez v. Prospect Hosp.*, 68 NY2d 320, 324 [1986]; citing *Zuckerman v. City of New York*, 49 NY2d at 562 [1980]).

False Arrest

“The elements of a cause of action alleging false imprisonment or false arrest are that the defendant intended to confine the plaintiff, that the plaintiff was conscious of the confinement and did not consent to the confinement and that the confinement was not otherwise privileged” (*Metwally v City of New York*, 215 AD3d 820, 822 [2d Dept 2023] [citation omitted]). Probable cause is a complete defense to a cause of action sounding in false arrest. “Failure to make further inquiry when a reasonable person would have done so may be evidence of lack of probable cause” (see *Fortunato v City of New York*, 63 AD3d 880, 880 [2d Dept 2009]; *Carlton v Nassau County Police Dept.*, 306 AD2d 365, 366 [2d Dept 2003]). “A plaintiff cannot prevail on causes of action based upon false arrest, false imprisonment, and malicious prosecution if the arresting officers had probable cause to believe that [the plaintiff] committed the underlying offense” (see *Nasca v Sgro*, 130 AD3d 588, 589 [2d Dept 2015]; citing *Whyte v City of Yonkers*, 36 AD3d 799 [2d Dept 2007]). “Probable cause to believe that a person committed a crime is a complete defense to a cause of action alleging false arrest, false imprisonment and malicious prosecution, whether asserted under state law or 42 U.S.C. § 1983” (see *Nasca v Sgro*, 130 AD3d 588, 589 [2d Dept 2015]; citing *Gisondi v Town of Harrison*, 72 NY2d 280, 283 [1988]; *Paulos v City of New York*, 122 AD3d 815, 817 [2d Dept 2014]; *Holland v City of Poughkeepsie*, 90 AD3d 841, 845 [2d Dept 2011]; *Fortunato v City of New York*, 63 AD3d 880, 880 [2d Dept 2009]; *Carlton v Nassau County Police Dept.*, 306 AD2d 365, 366 [2d Dept 2003]). “Probable cause requires only information sufficient to support a reasonable belief that an offense has been committed” (see *Nasca v Sgro*, 130 AD3d 588, 589 [2d Dept 2015]; citing *Reape v City of New York*, 66 AD3d 755, 756 [2d Dept 2009]). Generally, probable cause is established where an identified crime victim “communicates to the arresting officer information affording a credible ground for believing the offense was committed and identifies the accused as the perpetrator” (see *Nasca v Sgro*, 130 AD3d 588, 589 [2d Dept 2015]; citing *Paulos v City of New York*, 122 AD3d 815, 817 [2d Dept 2014]). Moreover, in determining whether a police officer has probable cause for an arrest, “the emphasis should not be narrowly focused on any single factor, but on an evaluation of the totality of circumstances, which takes into account the realities of everyday life unfolding before a trained officer who has to confront, on a daily basis, similar incidents” (see *People v Wright*, 8 AD3d 304, 307 [2d Dept 2004]).

The City argues that the officers observed Plaintiff commit the traffic infraction of failing to signal and upon approaching the vehicle they observed that the Plaintiff had several air fresheners hanging from his rearview mirror in violation of NY Vehicle and Traffic Law §§ 275-30 and 1163.

In opposition, Plaintiff argues that there is an issue of fact as to whether he signaled as Plaintiff’s testimony indicates he did; the body camera footage does not provide evidence related to the same.

Despite Plaintiff’s representations the City has established that there was probable cause for the arrest as the officer indicate that they observed the Plaintiff commit the offense.

NY CPL §§ 140.10 (1) and (2) states [emphasis added]:

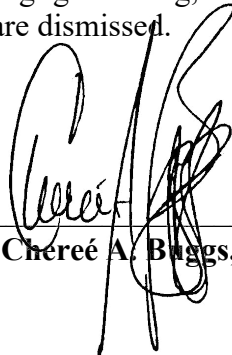
- (1) Subject to the provisions of subdivision two, a police officer may arrest a person for:
 - a. Any **offense** when he or she has reasonable cause to believe that such person committed such offense in his or her **presence**; and
 - b. A crime when he or she has reasonable cause to believe that such person has committed such crime, whether in his or her presence or otherwise.
- (2) A police officer may arrest a person for a petty offense, pursuant to subdivision one, only when:
 - a. Such offense was committed or believed by him or her to have been committed within the geographical area of such police officer's employment or within one hundred yards of such geographical area; and
 - b. Such arrest is made in the county in which such offense was committed or believed to have been committed or in an adjoining county; except that police officer may follow such person in continuous close pursuit, commencing either in the county in which the offense was or is believed to have been committed or in an adjoining county, in and through any county of the state, and may arrest him or her in any county in which he or she apprehends him or her.

In *Atwater v City of Lago Vista* (532 US 318, 355 [2001]) the court held non-extraordinary arrests for traffic offenses, although humiliating, are not a violation of the fourth amendment. An arrest is "extraordinary" when it is conducted in a manner that is "unusually harmful to [his] privacy or even physical interests" (*id* at 353 citing *Whren v United States*, 517 US 806, 818 [1996]). The court in *Whren* explained examples of "extraordinary" circumstances include "seizure by means of deadly force" or "physical penetration of the body" (*Whren* at 818). *Whren* requires a balancing analysis in extraordinary matters where the arrest was effectuated in a manner that was harmful to an individuals privacy interest or even physical interests. This balancing test has been applied in arrests involving forced blood tests (*see Schmerber v California*, 384 YS 757, 758 [1966]) and when officers shot a suspect to apprehend (*see Tennessee v Garner*, 471 US 1 [1964]). Plaintiff has failed to allege facts that rise to the level of bodily intrusion which would warrant a balancing analysis. Thus, as the City has established probable cause for the arrest and the Plaintiff has failed to rebut the same the City has established that the arrest and subsequent imprisonment of the Plaintiff was not a violation of his fourth amendment rights. While this Court acknowledges, in consideration of the undisputed facts, that the arrest was unnecessary, as "an alternative summons was available" (*see People v Howell*, 49 NY2d 778 [1980]) the arrest was not a violation of Plaintiff's fourth amendment rights. Therefore, it is

ORDERED, that the motion is **granted** in its entirety, Plaintiff's negligent hiring, retention and training; federal false arrest; and federal false imprisonment claims are dismissed.

The foregoing constitutes the decision and Order of this Court.

Dated: September 7, 2025


 Hon. Chereé A. Biggs, JSC

