

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

IN THE COURT OF COMMON PLEAS
CASE NO. 2016-CP-42-1280

Caitlyn Langham,)
)
 Plaintiff,)
)
 v.)
)
 Officer Russell Porter, City of)
 Spartanburg, Police Department,)
 and Wal-Mart Stores, Inc.,)
)
 Defendants,)
)
 _____)

ORDER GRANTING SUMMARY
JUDGMENT TO DEFENDANTS
PORTER, CITY OF SPARTANBURG,
AND SPARTANBURG POLICE
DEPARTMENT

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SC Court of Appeals

This matter is before the Court on the Motion for Summary Judgment of Defendants Porter, City of Spartanburg, and Spartanburg Police Department. For the reasons set forth below, the Court hereby grants summary judgment to these Defendants as to all causes of action raised by the Plaintiff. The Court finds the statute of limitations ran prior to the filing of the Plaintiff's Complaint on all state causes of action except malicious prosecution. Furthermore, the Court finds that the Defendants are entitled to summary judgment as to the malicious prosecution and §1983 causes of action based upon the existence of probable cause to arrest, detain and try the Plaintiff.

PROCEDURAL HISTORY

Plaintiff filed this action with the Clerk of Court for the County of Spartanburg, State of South Carolina, on April 8, 2016, alleging both federal and state causes of action in connection with her arrest for shoplifting on or about December 24, 2013. The Defendants filed an Answer that included, among other defenses, any applicable statutes of limitations. The Defendants filed the Motion for Summary Judgment on December 8, 2016, and a hearing was held on February 28, 2017.

FACTUAL HISTORY¹

According to the Plaintiff's Complaint, she was shopping at the Wal-Mart store in Spartanburg on Christmas Eve of 2013 when she "decided to pick up a few personal cosmetic items." She put "cosmetic items such as mascara and eyeliner in her shopping car[t]," along with other items. However, she claims that when she got to the register she realized she did not have enough money for all of the items in her cart and that she put the cosmetic items on a shelf near the checkout line. The Plaintiff's Complaint admits that Wal-Mart employees told Officer Porter that they witnessed her placing items in her purse. (Complaint ¶¶ 9-13.) The Plaintiff admits that she had a drug problem and was "probably" on pain medicine on the date of her arrest. (Depo. of Caitlyn Langham, p. 12, l. 23 – p. 13, l. 22; p. 14, l. 3-6.)

Officer Porter approached the Plaintiff and personally observed numerous Wal-Mart items in her open shoulder bag/purse. As Officer Porter attempted to place the Plaintiff into custody, she physically resisted and Officer Porter was forced to use a reasonable amount of force to effectuate the arrest. The unopened and unpurchased Wal-Mart items found in Plaintiff's purse included hygiene items, snacks, and candies worth \$74.62. (See Trial Transcript, p. 8, l. 1 – p. 9, l. 13).

LEGAL STANDARDS

Summary judgment "shall be rendered forthwith 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." S.C.R.C.P. 56(c). Summary judgment is appropriate when it is clear that there is no

¹ The facts are based on the pleadings, depositions, and other exhibits submitted to the Court, including excerpts of the criminal trial transcript, and are taken in the light most favorable to the Plaintiff.

genuine issue of material fact and the conclusions and inferences to be drawn from the facts are undisputed. *Garvin v. Bi-Lo, Inc.*, 343 S.C. 625, 541 S.E.2d 831 (2001). The purpose of summary judgment is to expedite the disposition of cases that do not require the services of a fact finder. *Dawkins v. Fields*, 354 S.C. 58, 580 S.E.2d 433 (2003).

In determining whether any triable issue of fact exists, the evidence and all inferences, which can be reasonably drawn therefrom, must be viewed in the light most favorable to the non-moving party. *Strother v. Lexington County Recreation Comm'n*, 332 S.C. 54, 504 S.E.2d 117 (1998); *Pye v. Aycock*, 325 S.C. 426, 480 S.E.2d 455 (Ct. App. 1997). "A court considering summary judgment neither makes factual determinations nor considers the merits of competing testimony; however, summary judgment is completely appropriate when a properly supported motion sets forth facts that remain undisputed or are contested in a deficient manner." *Guinan v. Tenet Healthsystems of Hilton Head*, 383 S.C. 48, 677 S.E.2d 32 (Ct. App. 2009).

"Statutes of limitations are not simply technicalities. On the contrary, they have long been respected as fundamental to a well-ordered judicial system." *Moates v. Bobb*, 322 S.C. 172, 470 S.E.2d 402 (Ct.App.1996) (citing 54 C.J.S. Limitations of Actions § 2, at 16-17 (1989)). "Statutes of limitations embody important public policy considerations in that they stimulate activity, punish negligence, and promote repose by giving security and stability to human affairs." *Id.* (citing 51 Am.Jur.2d, Limitation of Actions § 18, at 603 (1970)).

LEGAL ANALYSIS

I. THE PLAINTIFF'S STATE CLAIMS ARE BARRED BY THE STATUTE OF LIMITATIONS.

Plaintiff's causes of action for false imprisonment, defamation, and assault and battery are barred by the applicable statutes of limitation. "The S.C. Tort Claims Act, S.C. Code Ann. §15-78-10, *et. seq.*, governs all tort claims against governmental entities and is the exclusive civil

remedy available in an action against a governmental entity or its employees.” *Flateau v. Harrelson*, 355 S.C. 197, 584 S.E.2d 413 (Ct.App.2003). The Tort Claims Act contains a general two (2) year statute of limitations. S.C. Code Ann. §15-78-110 (1976, as amended). This action was not filed until April 8, 2016, which was more than two (2) years after the Plaintiff’s arrest on December 24, 2013.² Based thereon, those causes of action should be dismissed.³

Moreover, with respect to the accrual of a cause of action under the Tort Claims Act, “the statute of limitations begins to run when the Plaintiff should know that she might have a potential claim against another, not when she develops a full blown theory of recovery.” *Joubert v. S.C. Department of Social Services*, 341 S.C. 176, 190, 534 S.E. 2d 1,8 (SC App. 2000). S.C. Code Ann. §15-78-110(a). The date on which discovery should have been made is an objective, not subjective question. *Kruetner v. David*, 320 S.C. 283, 465 S.C. 2d 88 (1995). “A cause of action accrues when the Plaintiff possesses sufficient facts about the harm done to him that reasonable inquiry will reveal his cause of action.” *Brooks v. City of Winston Salem, N.C.*, 85 F 3d 178 (4th Cir. 1996) (quoting *Nasim v. Warden, Md. House of Correction*, 64 F 3d 951 (4th Cir. 1995) (en banc), cert. denied 516 US 1177 (1996). Since Plaintiff knew of her arrest on December 24, 2013, the statute of limitations began to run on such date. Therefore, the Plaintiff’s two-year time period for filing suit expired on December 24, 2015. As Plaintiff did not file her initial suit in this matter until April 8, 2016, the Defendants are entitled to summary judgment based upon the statute of

² At a prior hearing held on August 25, 2016 on the Defendant Wal-Mart’s Motion to Dismiss, the Plaintiff conceded that the state claims, including false imprisonment and defamation, are barred by the two-year statute of limitations found in §15-3-550.

³ This Court previously found that the two-year statute of limitations found in §15-3-550 barred the Plaintiff’s causes of action against Wal-Mart for false imprisonment and defamation. (See Order of November 15, 2016.)

limitations as to all state causes of action pled by the Plaintiff, with the exception of malicious prosecution.⁴

II. THE PLAINTIFF'S FOURTH AMENDMENT CLAIM AND HER CLAIMS FOR FALSE ARREST AND MALICIOUS PROSECUTION ARE PRECLUDED BY PROBABLE CAUSE.

Plaintiff's causes of action for unreasonable search and seizure under the Fourth Amendment, as well as for false imprisonment and malicious prosecution under state law, are barred by the existence of probable cause. "[A] warrantless arrest by a law officer is reasonable under the Fourth Amendment where there is probable cause to believe that a criminal offense has been or is being committed." *Devenpeck v. Alford*, 542 U.S. 146 (2004). Similarly, state law claims for malicious prosecution and false arrest require the lack of probable cause as one of their elements. See *McBride v. School District of Greenville County*, 389 SC 546, 698 SE 2d 845 (SC App. 2010); *Jordan v. Deese*, 317 SC 260, 452 SE 2d 838 (1995); *Jones by Robinson v. Winn-Dixie Greenville, Inc.*, 318 SC 171, 456 SE 2d 429 (SC App. 1995); *Wortman v. Spartanburg*, 310 SC 1, 425 SE 2d 18 (1992).

The foundational case for the probable cause standard is *Illinois v. Gates*, 462 U.S. 213 (1983), which states that judicial officers should evaluate the evidence presented in the complaint and affidavits in a "nontechnical, common-sense" manner, "applying a standard less demanding than those used in more formal legal proceedings" and that the ultimate decision on whether probable cause exists must be based on the totality of the circumstances. Whether probable cause exists depends upon the reasonable conclusion to be drawn from the facts known to the arresting

⁴ Although malicious prosecution also has a two-year statute of limitations under the S.C. Tort Claims Act, one of the elements is that the prosecution was terminated in the Plaintiff's favor. Therefore, that time period did not begin to run until the Plaintiff's acquittal on September 17, 2014. See *Peirce v. Bryant*, 2016 WL 1061060 (D.S.C. March 17, 2016).

officer at the time of the arrest. *Devenpeck, supra* (citing *Maryland v. Pringle*, 540 U.S. 366 (2003)).

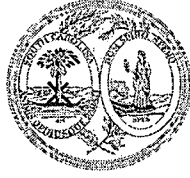
“The probable-cause standard is incapable of precise definition or quantification into percentages because it deals with probabilities and depends on the totality of the circumstances.” *Maryland v. Pringle, supra*. Probable cause exists when facts and circumstances known to the officer(s) would warrant belief of prudent person that arrestee had committed or was committing offense, and must be supported by more than mere suspicion, although evidence sufficient to convict is not required. *See Taylor v. Waters*, 81 F.3d 429 (4th Cir.1996). “Stripped to its essence, the question to be answered is whether an objectively reasonable police officer, placed in the circumstances, had a ‘reasonable ground for belief of guilt’ that was ‘particularized with respect to the person to be searched or seized.’ ” *U.S. v. Humphries*, 372 F.3d 653 (4th Cir.2004) (citing *Maryland v. Pringle, supra*).

The evidence establishes probable cause: witnesses told Officer Porter that they had seen the Plaintiff place items into her purse; suspiciously, the Plaintiff attempted to leave the store as the officer approached; and the officer personally observed Wal-Mart merchandise in her open purse. In addition, at the conclusion of the State’s case in the criminal trial, the defense made a motion for a dismissal based on lack of probable cause. The Court denied the motion and stated, “there is sufficient evidence to move forward to allow the matter to be taken in front of the jury.” (Trial Transcript, p. 22, l. 8 – p. 23, l. 12). Based thereon, probable cause existed, as a matter of law, for the Plaintiff’s arrest in this case. Therefore, Plaintiff’s state causes of action for false imprisonment and malicious prosecution and her Fourth Amendment claim are barred and the Defendants are entitled to summary judgment thereon as a matter of law.

CONCLUSION

Based on the above, summary judgment as to all claims is hereby granted to the Defendants Porter, City of Spartanburg, and City of Spartanburg Police Department, and the case is dismissed with prejudice as to these defendants.

Electronic signature page to follow.



Spartanburg Common Pleas

Case Caption: Caitlyn Langham VS Russell Porter , defendant, et al
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It is so Ordered.

s/ R. Keith Kelly - 2165