

STATE OF NEW YORK
COURT OF APPEALS

*Decided and Entered on the
twelfth day of June, 2018*

Present, Hon. Janet DiFiore, *Chief Judge,*
presiding.

Mo. No. 2018-384

Teddy Moore,
Appellant,
v.
Frank Guerra,
Defendant,
City of New York, et al.,
Respondents.

Appellant having moved for reargument of a motion for leave to appeal to the Court of Appeals in the above cause;

Upon the papers filed and due deliberation, it is ORDERED, that the motion is denied.

s/
John P. Asiello
Clerk of the Court

A/1

STATE OF NEW YORK
COURT OF APPEALS

*Decided and Entered on the
twenty-seventh day of March, 2018*

Present, Hon. Janet DiFiore, *Chief Judge,*
presiding.

Mo. No. 2018-42

Teddy Moore,
v.
Frank Guerra,
City of New York, et al.,
Appellant,
Defendant,
Respondents.

Appellant having moved for leave to appeal to the Court of Appeals and for poor person relief &c. in the above cause;

Upon the papers filed and due deliberation, it is ORDERED, that the motion for leave to appeal is dismissed upon the ground that the order sought to be appealed from does not finally determine the action within the meaning of the Constitution; and it is further

ORDERED, that the motion for poor person relief &c. is dismissed as academic.

3a

s/
John P. Asiello
Clerk of the Court
A/2

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION: SECOND JUDICIAL
DEPARTMENT

M242047
E/ct

MARK C. DILLON, J.P.
RUTH C. BALKIN
LEONARD B. AUSTIN
FRANCESCA E. CONNOLLY, JJ.

2017-00943

Teddy Moore, Appellant, v.
Frank Guerra, Defendant,
City of New York, et al., Respondents.

(Index No. 4895/10)

DECISION & ORDER ON MOTION

Motion by the appellant pro se on an appeal from an order of the Supreme Court, Kings County, dated December 2, 2016, inter alia, to direct the Supreme Court, Kings County, "to refer the case for adjudication by the jury" to determine a certain claim, and for poor person relief.

Upon the papers filed in support of the motion and no papers having been filed in opposition or in relation thereto, it is

ORDERED that the motion is denied.

DILLON, J.P., BALKIN, AUSTIN and CONNOLLY, JJ., concur.

5a

ENTER:

s/
Aprilanne Agostino
Clerk of the Court

A/3

December 13, 2017

MOORE v GUERRA

STATE OF NEW YORK
COURT OF APPEALS

*Decided and Entered on the
twenty-second day of June, 2017*

**Present, Hon. Janet DiFiore, Chief Judge,
presiding.**

SSD 34

Teddy Moore, Appellant,

v.

Frank Guerra,
Defendant,
City of New York, et al.,
Respondents.

Appellant having appealed to the Court of Appeals
in the above title;

Upon the papers filed and due deliberation, it is
ORDERED, that the appeal is dismissed without
costs, by the Court sua sponte, upon the ground that
the order appealed from does not finally determine
the action within the meaning of the Constitution.

Judge Feinman took no part.

s/
John P. Asiello
Clerk of the Court

A/4

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION: SECOND JUDICIAL
DEPARTMENT

M228234
E/ct

MARK C. DILLON, J.P.
RUTH C. BALKIN
LEONARD B. AUSTIN
FRANCESCA E. CONNOLLY, JJ.

2017-00943

Teddy Moore, Appellant, v.
Frank Guerra, Defendant,
City of New York, et al., Respondents.

(Index No. 4895/10)

DECISION & ORDER ON MOTION

Motion by the appellant pro se on an appeal from an order of the Supreme Court, Kings County, dated December 2, 2016, to direct the Supreme Court, Kings County, "to send the case to the jury," to recuse certain Justices of this Court from determining this appeal, to transfer this appeal to the Appellate Division, First Department, for a preference in the calendaring of the appeal, and for poor person relief.

Upon the papers filed in support of the motion and the papers filed in opposition thereto, it is

ORDERED that the motion is denied.

DILLON, J.P., BALKIN, AUSTIN and CONNOLLY, JJ., concur.

At an I.A.S. Trial Term, Part 25 of the Supreme Court of the State of New York, held in and for the County of Kings, at the Courthouse, located at Civic Center, Borough of Brooklyn, City and State of New York on the 9 day of Feb 2011.

P R E S E N T:

Hon. Sylvia G. Ash 2009-011277
Justice

Cal. No. 36 & 36A
Index No. 4895/10

Teddy Moore,

Plaintiff(s)

—against—

Frank Guerra, Christopher Breamwell,
New York City Police Department and
New York City,

Defendant(s)

The following papers
numbered 1 to read on
this motion

PAPERS NUMBERED

Notice of Motion – Order to Show Cause _____
and Affidavits (Affirmations) Annexed _____
Answering Affidavits (Affirmation) _____
Reply Affidavits (Affirmation) _____
Pleadings – Exhibits _____
Stipulations – Minutes _____
Filed Papers _____

After Oral Argument, Plaintiffs motion for default and summary judgment is denied.

The City's cross-motion is granted to the extent that the Plaintiffs state law claims for failure to protect, false arrest/imprisonment, intentional infliction of emotional distress and violations of rights conferred by the state constitution are dismissed for plaintiffs failure to comply w/ GML 50-e.

The Plaintiff's claim for malicious prosecution remains as the court finds a question of fact as to the City's probable cause to arrest the plaintiff.

ENTER
[SIGNATURE]
J.S.C.
HON. SYLVIA G. ASH, JSC

s/
D. City E.T.

[TAG] A/6
PLAINTIFF'S
EXHIBIT 5
EVID
11/1/11

11a

FURTHER QUESTION NUMBERED 1

(At least five (5) of six (6) of you must agree on the answer to this question)

Did defendant, P.O. CHRISTOPHER BRAMWELL have probable cause to arrest the plaintiff, TEDDY MOORE?

Yes No

Signatures of jurors agreeing:

[SIGNATURE] [SIGNATURE]

[SIGNATURE] [SIGNATURE]

[SIGNATURE] [SIGNATURE]

Dissenting juror, if any.

IF "YES", PROCEED NO FURTHER AND ANNOUNCE YOU HAVE REACHED A VERDICT.

IF "NO" THEN PROCEED TO QUESTION NUMBERED 2.

A/7

[STAMP]

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION: SECOND JUDICIAL
DEPARTMENT

d35483
Y/kmb

Submitted - May 17, 2012

_____AD3d_____

DANIEL D. ANGIOLILLO, J.P.
ARIEL E. BELEN
SHERI S. ROMAN
SANDRA L. SGROI, JJ.

2011-11203

Teddy Moore, Appellant, v
Frank Guerra, Defendant,
Christopher Bramwell, et al. Respondents.
(Index No. 4895/10)

DECISION & ORDER

Teddy Moore, New York, N.Y., appellant pro se.

Michael A. Cardozo, Corporation Counsel, New York, N.Y. (Francis F. Caputo of counsel; Daniel A. Pollak on the brief), for respondents.

In an action to recover damages for malicious prosecution, the plaintiff appeals from an order of the Supreme Court, Kings County (King, J.), dated November 21, 2011, which denied his motion pursuant to CPLR 4404 to set aside a jury verdict in favor of the defendants and against him on the issue of liability.

ORDERED that the order is affirmed, with costs.

The plaintiff moved to set aside the jury verdict, in effect, in the interest of justice on the ground that the Supreme Court's jury charge on malicious prosecution was confusing and misleading. In order to prevail on a cause of action seeking to recover damages for malicious prosecution, a plaintiff must establish (1) the commencement or continuation of a criminal proceeding by the defendant against the plaintiff, (2) the termination of the proceeding in favor of the accused, (3) the absence of probable cause for the criminal proceeding, and (4) actual malice (see *Rivera v County of Nassau*, 83 AD3d 1032; *Fortunato v City of New York*, 63 AD3d 880, 881; *Chetrick v Cohen*, 52 AD3d 449; *O'Donnell v County of Nassau*, 7 AD3d 590, 591). Here, the first two elements of the cause of action were undisputed, and thus, the trial of the action focused on the third and fourth elements. Contrary to the plaintiff's contentions, the Supreme Court's charge clearly and adequately conveyed the applicable legal principles with respect to a cause of action to recover damages for malicious prosecution, including, in particular, the elements of lack of probable cause and actual malice (see PJI 3:50; *Beck v Long Is. Water Corp.*, 77 AD3d 780).

Accordingly, the Supreme Court properly denied the plaintiff's motion pursuant to CPLR 4404 to set aside the jury verdict in favor of the defendants and against him on the issue of liability.

ANGIOLILLO, J.P., BELEN, ROMAN and SGROI, JJ., concur.