IN SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION

JACQUELINE M. KING,	)	
	)	
Plaintiff,	)	
	)	**Civil Action No.: 2016 CA 003948 B**
v.	)	**Judge Jeanette J. Clark**
	)	**Calendar 7**
DISTRICT OF COLUMBIA, *et al.*,	)	
	)	**Next Event:**
Defendants.	)	**CLOSED CASE**
	)	

ORDER GRANTING DEFENDANTS' MOTION TO DISMISS

Upon consideration of Defendants' Motion to Dismiss ("Motion") that was filed on September 19, 2016, no Opposition thereto was filed,[1] and the record herein, the Motion is granted for the reasons stated below.

I. FACTUAL AND PROCEDURAL HISTORY

On May 24, 2016, Plaintiff filed a complaint against Defendants alleging Count I: Wrongful Detention and Abuse of Process, Count II: Violation of Civil Liberties, Count III: Negligence, and Count IV: Intentional Infliction of Emotional Distress. Defendant's filed a Motion to Dismiss on September 19, 2016. Plaintiff alleges:

> On May 24, 2013, Plaintiff was stopped by two members of the MPD at the intersection of Rhode Island Avenue and 4th Street NE in connection with having an expired registration. Plaintiff informed the police officers that she was aware that her tags had expired and she was on route to the closes DMV office . . . . one of the officers stated that Plaintiff's license was suspended . . . Plaintiff was placed in a police paddy wagon and transported to the 5th precinct where she was processed and locked up. After 3 to 5 hours Plaintiff was released on her own person recognizance and given a court date to appear in the DC Superior Court. . . . King visited the DMV on or about May 28, 2013 and a representative there informed Plaintiff that her driver license was suspended for failure to pay

[1] Plaintiff's attempt to file an Opposition on November 4, 2016 failed because the clerk's office rejected the document that she filed inasmuch as she did not pay the filing fee. However, the Court reviewed Plaintiff's Memorandum of Points and Authorities in Oppostion [sic] to Defendant's Motion to Dismiss and was not persuaded by her arguments.

APPENDIX A

parking tickets. King informed the DMV Representative that she did not owe the exorbitant amount that was in the system and she later provided proof to that effect. . . . Plaintiff had to appear in criminal court and endure the humiliation of having to perform community service for alleged crime.

Compl. at 2-4.

II. STANDARD OF REVIEW

On a motion for failure to state a claim, the District of Columbia Court of Appeals has stated that "[i]n considering the sufficiency of the complaint [ ], we—like the trial court—are obliged to 'accept its factual allegations and construe them in a light most favorable to' the plaintiffs. If the complaint 'adequately states a claim' when thus viewed, 'it may not be dismissed based on a . . . court's assessment that the plaintiff will fail to find evidentiary support for his allegations or prove his claim to the satisfaction of the factfinder.' And [ ] a motion to dismiss for failure to state a claim 'may not rely on any facts that do not appear on the face of the complaint itself.'" *Luna v. A.E. Eng'g Servs., LLC,* 938 A.2d 744, 748 (D.C. 2007).

The District of Columbia Court of Appeals explained that "[i]n deciding a motion to dismiss, the court accepts as true all allegations in the Complaint and views them in a light most favorable to the nonmoving party." *Jordan Keys & Jessamy, LLP v. St. Paul Fire & Marine Ins. Co.*, 870 A.2d 58, 62 (D.C. 2005); *Stancil v. First Mt. Vernon Indus. Loan Ass'n*, 131 A.3d 867, 869 (D.C. 2014).

However,

> [f]actual allegations must be enough to raise a right to relief above the speculative level . . . . '*Bell Atlantic Corp. v. Twombly*, 127 S. Ct. 1955, 1965, 167 L. Ed. 2d 929 (2007). Furthermore, dismissal under Rule 12(b)(6) is appropriate where the complaint fails to allege the elements of a legally viable claim. *See Jordan Keys & Jessamy*, 870 A.2d at 62 (affirming dismissal for failure to state a claim; '"We agree with the trial judge that Jordan Keys' amended complaint, viewed in the light most favorable to the pleader, does not allege the elements of an implied-in-fact contract.); *Taylor v. FDIC*, 328 U.S. App. D.C. 52, 60, 132 F.3d 753, 761

(1997) ("'Dismissal under Rule 12(b)(6) is proper when, taking the material allegations of the complaint as admitted, and construing them in plaintiffs' favor, the court finds that the plaintiffs have failed to allege all the material elements of their cause of action.') (citations omitted)). To be sure, 'complaints need not plead law or match facts to every element of a legal theory," *Krieger v. Fadely*, 341 U.S. App. D.C. 163, 165, 211 F.3d 134, 136 (2000) (internal quotation marks and citation omitted), but 'the pleader must set forth sufficient information to outline the legal elements of a viable claim for relief or to permit inferences to be drawn from the complaint that indicate that these elements exist.' 5B CHARLES ALAN WRIGHT & ARTHUR R. MILLER, FEDERAL PRACTICE AND PROCEDURE: CIVIL 3D § 1357, at 683 (2004). *See In re Plywood Antitrust Litigation*, 655 F.2d 627, 641 (5th Cir. 1981) ('Despite the liberality of modern rules of pleading, a complaint still must contain either direct or inferential allegations respecting all the material elements necessary to sustain a recovery under some viable legal theory.').

Chamberlain v. American Honda Finance Corp., 931 A.2d 1018, 1023 (D.C. 2007).

The Court of Appeals cautioned that "'[a]ny uncertainties or ambiguities' in the complaint, 'must be resolved in favor of the pleader.'" *Wetzel v. Capital City Real Estate, LLC*, 73 A.3d 1000, 1002 (D.C. 2013) (internal citations omitted) (*citing Hillroom v. PricewaterhouseCoopers LLP*, 17 A.3d 566, 573 (D.C. 2011); *Washkoviak v. Sallie Mae*, 900 A.2d 168, 177 (D.C. 2006) ("generally, the complaint must not be dismissed because the court doubts that plaintiff will prevail.").

III. ANALYSIS

A. Defendants MPD and the DMV are *Non Sui Juris* Entities

The Court of Appeals has informed that:

> Cases in this jurisdiction have consistently found that bodies within the District of Columbia government are not suable as separate entities. *Simmons v. District of Columbia Armory Bd.*, 656 A.2d 1155, 1156 (D.C. 1995) (per curiam) (quotation marks omitted). It is settled that MPD is one such body -- it "is not a separate suable entity" because it is a noncorporate department within the District government and no statutory provision authorizes suit against it. *McRae v. Olive*, 368 F. Supp. 2d 91, 94 (D.D.C. 2005); *accord Heenan v. Leo*, 525 F. Supp. 2d 110, 112 (D.D.C. 2007); *Aleotti v. Baars*, 896 F. Supp. 1, 6 (D.D.C. 1995), *aff'd*, 107 F.3d 922, 323 U.S. App. D.C. 289 (D.C. Cir. 1996).

D.C. Metro. Police Dep't v. Fraternal Order of Police, 997 A.2d 65, 74 (D.C. 2010); *Thompson v. District of Columbia*, 863 A.2d 814, 816 n.3 (D.C. 2004) ("There is no record of service on the District of Columbia Fire Department. In any event, the Fire Department is properly dismissed as a defendant because it is not a suable entity. *See, e.g., Braxton v. National Capital Housing Authority*, 396 A.2d 215, 216-217 (D.C. 1978) ("bodies within the District of Columbia government are not suable as separate entities").). Furthermore, the Court of Appeals has stated that:

> An objection to a District agency's capacity to be sued in its name should be brought in a Rule 12 (b)(6) motion to dismiss for failure to state a claim upon which relief can be granted. This is because the argument in such a case is that even if all the allegations in a complaint seeking relief against a District agency such as MPD are accepted as true, that complaint is legally insufficient because it seeks relief that, on the facts alleged, is unavailable. *Murray v. Wells Fargo Home Mortgage*, 953 A.2d 308, 316 (D.C. 2008).

Id. at 75-76.

Defendants argue that "the MPD and DMV are *non sui juris* and therefore cannot be sued." Mot. at 1. Here, Plaintiff is alleging a claim against the MPD and the DMV. The MPD and DMV are bodies within the District of Columbia government and cannot be sued as separate entities. Therefore, the claims against them are dismissed.

B. Count I - Wrongful Detention and Abuse of Process Is Dismissed

1. Wrongful Detention

The Court treats Plaintiff's cause of action for "wrongful detention as one for "false imprisonment." D.C. Code § 12-301(4) states:

> Except as otherwise specifically provided by law, actions for the following purposes may not be brought after the expiration of the period specified below from the time the right to maintain the action accrues: (4) for libel, slander, assault, battery, mayhem, wounding, malicious prosecution, false arrest or false imprisonment— 1 year;

Plaintiff was arrested on May 24, 2013. The Court agrees with Defendants' argument that Count I – Wrongful Detention - is barred by the statute of limitations.[2] Plaintiff should have filed a cause of action for false arrest/wrongful detention no later than May 24, 2014.

2. Abuse of Process

It is well established that

> [t]he tort of abuse of process "lies where the legal system has been used to accomplish some end which is without the regular purview of the process, or which compels the party against whom it is used to do some collateral thing which he could not legally and regularly be required to do." *Bown v. Hamilton*, 601 A.2d 1074, 1079 (D.C. 1992) (citations and internal quotation marks omitted). The fact that a plaintiff has an ulterior motive in filing suit is not enough to sustain a claim for abuse of process if "there [i]s no showing that the process was, in fact, used to accomplish an end not regularly or legally obtainable." *Id.* at 1080; see also *Morowitz v. Marvel*, 423 A.2d 196, 198-99 (D.C. 1980) (explaining that an action against patient for abuse of process did not lie where, in response to a lawsuit by physicians to obtain payment of patient's outstanding debt, the patient filed a malpractice suit with the ulterior motive of coercing a settlement).

Wood v. Neuman, 979 A.2d 64, 77 (D.C. 2009); *Bolton v. Crowley*, 110 A.3d 575, 585 (D.C. 2015) (quoting *Epps v. Vogel*, 454 A.2d 320, 324 (D.C. 1982) ("[A] party's ulterior motive does not make the issuance of process actionable; in addition to ulterior motive, one must allege and prove that there has been a perversion of the judicial process") (internal quotation marks and citation omitted)").

Consistent with the Court of Appeals rulings, the United States District Court for the District of Columbia has stated that:

> "a claim that a lawsuit was brought for the unlawful purpose to extort money was not sufficient to support an abuse of process suit because it 'amount[ed] to no

[2] Also, Defendants argue: "This Court need not decide precisely which claim Plaintiff is asserting because both claims are barred by the statute of limitations. Claims of false imprisonment and false arrest must be brought within one year of the date upon which the cause of action accrues." Mem. Mot. at 3.

> more than an allegation that the . . . suit was based on an unfounded claim'. To permit the use of abuse of process in such a situation would blur a critical distinction between the tort of abuse of process and the tort of malicious prosecution, which lies where the action was brought without probable cause and terminated successfully in favor of the aggrieved party. *See Bown*, 601 A.2d at 1080 n.14 (stating that "to the extent that the alleged tort is based upon a lack of sound foundation for the instigation of the possession action recovery would appear best determined within the limits of malicious prosecution.").

Houlahan v. World Wide Ass'n of Specialty Programs & Sch., 677 F. Supp. 2d 195, 200 n.6 (D.D.C. 2010). The Court went on to state that "'the usual case of abuse of process is one of some form of extortion, using the process to put pressure upon the other to compel him to pay a different debt or to take some other action or refrain from it.' (quoting RESTATEMENT (SECOND) OF TORTS § 682 cmt. b (1977))); *Scott v. Dist. of Columbia*, 101 F. 3d 748, 755-56, 322 U.S. App. D.C. 75 (D.C. Cir. 1996) (quoting same language). No reasonable juror could find that defendants took any specific action in connection with their filing of the Utah suit which can be characterized as unlawful or not 'proper in the regular prosecution of the proceedings.' Therefore, Houlahan is unable to establish the essential elements of an abuse of process claim." *Id.* at 201.

Moreover, in *Houlahan, supra,* the court stated that "[i]n an attempt to satisfy the 'act' element of the abuse of process claim, Houlahan . . . point[ed] to several acts that the defendants engaged in prior to the filing of the Utah lawsuit. The Court, however, does not consider these acts because an action for abuse of process 'lies in the improper use *after* issuance.' *Morowitz*, 423 A.2d at 198." *Id.* at n.7.

Likewise, here, Plaintiff's Abuse of Process claim is based on alleged acts that Defendants had engaged in prior to the filing of any lawsuit. The record is devoid of any allegations regarding Defendants' alleged actions that were taken after the lawsuit was filed or that Plaintiff was required to do some collateral thing, which she could not legally and regularly be required to do. Indeed, Defendants argue that "Plaintiff is simply

alleging that the DMV made an error in suspending her license and that the MPD acted appropriately upon learning that her license was suspended. Under these facts, acclaim for abuse of process cannot lie." Mot. Mem. at 5.

Accordingly, Count I – Wrongful Detention and Abuse of Process - is dismissed.

B. Count II - Violation of Civil Liberties Is Dismissed

In support of her claim, Plaintiff alleges that she "was never notified by the district that she owed outstanding parking tickets. She was never notified of the consequences that she would suffer if she failed to pay the alleged outstanding parking tickets." Comp. at ¶ 22. Plaintiff goes on to state that "King's due process rights and her civil liberties have been violated by the district." *Id.* at ¶ 25.

Contrarily, Defendants argue that "Violation of civil liberties" is not a cognizable claim in this Court, and Plaintiff fails to plead the basis for any jurisdiction this Court might have over such a claim." Mem. Mot. at 4. In reviewing the evidence, in the light most favorable to Plaintiff, it is undisputed, by her own admission, that the registration for her car had expired when the police officers stopped her. Also, Plaintiff never denied that she had outstanding parking tickets. She merely indicated that "she did not owe the exorbitant amount that was in the system." *Id.* at ¶ 14. It is clear the police officers had probable cause to arrest her and her civil liberties and due process rights were not violated. Therefore, Plaintiff has failed to state a claim, Count II – Violation of Civil Liberties – for which relief may be granted.

C. Negligence

For negligence

> It is well-established that a claim alleging the tort of negligence must show: (1) that the defendant owed a duty to the plaintiff, (2) breach of that duty, and (3) injury to the plaintiff that was proximately caused by the breach. *See, e.g., District of Columbia v. Cooper*, 483 A.2d 317, 321 (D.C. 1984) (citing PROSSER, HANDBOOK OF THE LAW OF TORTS § 30 (4th ed. 1971) (hereinafter "HANDBOOK OF THE LAW OF TORTS")). The court's threshold determination — namely, the existence of a duty — is "essentially a question of whether the policy of the law will extend the responsibility for the conduct to the consequences which have in fact occurred." *Id.* at 321 (quoting HANDBOOK OF THE LAW OF TORTS, *supra*, § 42). Stated another way: "The statement that there is or is not a duty begs the essential question — whether the plaintiff's interests are entitled to legal protection against the defendant's conduct." *Id.*

Hedgepeth v. Whitman Walker Clinic, 22 A.3d 789, 793 (D.C. 2011); *Night & Day Mgmt., LLC v. Butler*, 101 A. 3d 1033 (D.C. 2014).

Plaintiff argues "[a]ll of the facts and allegations outlined above are consistent with the District's negligence in protecting its residents' due process rights and assuring adequate notice of any infraction that could give rise to a criminal violation." Compl. at 5. The Defendants correctly argue that "Plaintiff appears to be asserting the constitutional protection of due process, rather than describing a specific duty of care owed to the Plaintiff. Therefore, Plaintiff has failed to state a claim for negligence." Mem. Mot. at 6.

More importantly, the public duty doctrine applies to governmental entities, such as the District of Columbia to bar Plaintiff's negligence claim. The District of Columbia Court advised that "The public duty rule provides that where a municipality has a duty to the general public, as opposed to a particular individual, breach of that duty does not result in tort liability (citation omitted)." *Nealon v. District of Columbia*, 669 A.2d 685, 691 (D.C. 1995) (citation omitted). Furthermore,

> [u]nder the public duty doctrine, a person seeking to hold the District of Columbia liable for negligence must allege and prove that the District owed a special duty to the injured party, greater than or different from any duty which it owed to the general public.

Snowder v. District of Columbia, 2008 D.C. App. LEXIS 261 (2008) (*quoting*, *Powell v. District of Columbia*, 602 A.2d 1123, 1129 (D.C. 1992)). The District of Columbia Court of Appeals has explained that

> [l]iability arises out of a "special relationship" between the city and the injured party. *Id.* Such a special relationship can be established in two ways: (1) by a statute prescribing "mandatory acts clearly for the protection of a particular class of persons rather than the public as a whole"; or (2) "a direct contact or continuing contact between the [injured party] and the governmental agency . . . and [] justifiable reliance on the part of the victim."[3]

Nealon, supra at 691 (alterations in original). The Court commented that "[a]n examination of our precedents regarding the public duty doctrine demonstrates how difficult it is to quality for an exception from it." *District of Columbia v. Forsman*, 580 A.2d 1314, 1316 (D.C. 1990). *Forsman*, *supra*, involved a demolition permit regulation which was not obtained by an adjacent property owner as a result of a District of Columbia employee housing Inspector's negligence. The plaintiff in *Forsman*, *supra*, failed to invoke the exception to the public duty doctrine. A duty was owed to the general public, and no special duty was owed to the plaintiff in *Forsman*, *supra*. Likewise, there is no duty owed to provide general services to the public. See *Woods v. District of Columbia*, 63 A.3d 551, 553 (D.C. 2013).

It is clear from the record that no special duty was owed to Plaintiff. *See Sheikh v. District of Columbia*, 77 F. Supp. 3d 73 (D.D.C. 2015) (dismissal of plaintiff's suit

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[3] "More than general reliance is needed, and appellant must act or fail to act in such a way as to show particular reliance upon the actions of the agency. ' Liability is established [if the agency has] specifically undertaken to protect a particular individual and the individual has specifically relied upon the undertaking." *Nealon*, *supra* at 692.

alleging police officers were negligent and failed to protect them at the Midtown Lounge by failing to prevent them from being injured by third parties). The *Sheikh* court explained that "[t]he public duty doctrine 'operates to shield the District and its employees from liability arising out of their actions in the course of providing public services.'" *Allen v. District of Columbia*, 100 A.3d 63, 67 (D.C. 2014) (quoting *Hines v. District of Columbia*, 580 A.2d 133, 136 (D.C. 1990). If "facts alleged ... do not suffice to establish that District employees created a special relationship with [Plaintiff] permitting imposition of negligence liability," the Court must dismiss the suit. *Woods v. District of Columbia*, 63 A.3d 551, 228 (D.C. 2013)." Applying the public duty doctrine, in *Allen*, *supra*, the Court dismissed an action against emergency medical technicians. The *Allen* court stated that "[u]nder the public duty doctrine, the District has no duty to provide public services to any particular citizen unless there is a 'special relationship' between the emergency personnel – police officer, firefighters, and EMTs – and an individual. (citations omitted)." *Id.* at 68. Even inept and negligent failure to dispatch an ambulance is barred by the public duty doctrine. *Wanzer v. District of Columbia*, 580 A.2d 127, 129, 132 (D.C. 1990); *Johnson v. District of Columbia*, 580 A.2d 140, 143 (D.C. 1990).

Indeed, Plaintiff must establish a "special relationship" by satisfying one of two conditions. Plaintiff would need to show either (1) the statute clearly protects persons of a particular class of which he is a member, rather than the general public, or (2) a contact with the District of Columbia government or its agent, and his justifiable reliance thereon.

There is no statute involved in this case which, protects Plaintiff and deems Plaintiff as a member thereof. She is a member of the general public for whom police

officers provide law enforcement services thereto.

Next, an examination of the alternative method for Plaintiff to establish a "special relationship" between the District of Columbia government and Plaintiff reveals that there is no record evidence of "direct or continuing contact" and reliance thereon by Plaintiff. Consequently, Plaintiff has not shown that she had a "special relationship" that would allow her to invoke an exception to the public duty doctrine.

Accordingly, Count III – Negligence is dismissed.

D. Count IV - Intentional Infliction of Emotional Distress

"To succeed on the claim of intentional infliction of emotional distress, a plaintiff must show (1) extreme and outrageous conduct on the part of the defendant which (2) intentionally or recklessly (3) causes the plaintiff severe emotional distress.'" *Minch v. District of Columbia*, 952 A.2d 929, 940 (D.C. 2008) (quoting *District of Columbia v. Thompson*, 570 A.2d 277, 289-90 (D.C. 1990)). *District of Columbia v. Tulin*, 994 A.2d 788, 800, (D.C. 2010).

Plaintiff alleges "King was told to get out of her car, place her hands on the top of her vehicle and then told to put her hands behind her back, searched, and hand cuffed in the streets by police officers while they waited for a paddy wagon to take her to jail. These events occurred without the police officers telling her what she had done wrong. Plaintiff endured the humiliation of an arrest with no knowledge as to why." Compl. at 5.

Defendants correctly argue that "[t]he conduct that Plaintiff asserts as the basis of her claim is her arrest for driving with a suspended license, together with the allegation that she was not told what she had done wrong . . . is not so

DISTRICT OF COLUMBIA COURT OF APPEALS

No. 16-CV-1251

JACQUELINE M. KING, APPELLANT,

v.

DISTRICT OF COLUMBIA, *et al.*, APPELLEE.

Appeal from the Superior Court
of the District of Columbia
(CAB-3948-16)

(Hon. Jeanette J. Clark, Trial Judge)

(Submitted December 11, 2018 Decided February 8, 2019)

Before THOMPSON, and EASTERLY, *Associate Judges*, and RUIZ, *Senior Judge*.

MEMORANDUM OPINION AND JUDGMENT

PER CURIAM: Appellant Jacqueline King brought suit against the District of Columbia for wrongful detention, violation of civil liberties, negligence, and intentional infliction of emotional distress stemming from an incident in which she was arrested and detained for driving on a suspended driver's license. The trial court dismissed her complaint, and we affirm.

I. Background

On May 24, 2016, appellant filed a complaint in Superior Court against the District of Columbia,[1] in which she alleged that, while driving on May 24, 2013,

[1] Appellant additionally named the District of Columbia Department of Motor Vehicles and the District of Columbia Metropolitan Police Department as defendants, but the trial court properly dismissed the claims against them because they are agencies within the District of Columbia government that cannot be sued as separate entities. *See, e.g., Hinton v. Metro. Police Dep't, Fifth Dist.*, 726 F.

(continued . . .)

APPENDIX B

she was pulled over by two officers of the Metropolitan Police Department for having expired tags. According to the complaint, one of the officers asked to see appellant's driver's license; appellant provided it and the officer returned to her patrol car with appellant's license, where she stayed for a period of time. The two officers then approached appellant's car, asked her to step out, told her to place her hands on the car, and handcuffed her. In response to a question from appellant's friend, who had been in the car with her, one of the officers stated that appellant was being arrested because her license was suspended. Appellant stated that her license was not expired, and the officer responded that they did not know why appellant's license was suspended. Appellant was then transported in a police vehicle to the station and detained for three to five hours before being released on her own personal recognizance.

Appellant further alleged that her license had been suspended for failure to pay parking tickets; according to her, this was a mistake, as she "did not owe the exorbitant amount that was in the system," and she alleged that she later corrected this error at the Department of Motor Vehicles ("DMV"). She also asserted that she had never been informed in writing that she had outstanding parking tickets or that her license would be suspended. Finally, she alleged that she had to "appear in criminal court" and "perform community service," which she characterized as "humiliation."

Based on these facts, appellant claimed wrongful detention and abuse of process (Count I), violation of civil liberties and due process (Count II), negligence (Count III), and intentional infliction of emotional distress ("IIED") (Count IV). The District filed a motion to dismiss appellant's complaint for failure to state a claim upon which relief could be granted, and, on November 14, 2016, the trial court granted the District motion, dismissing all counts of the complaint.

II. Standard of Review

> This court reviews de novo the dismissal of a complaint under Superior Court Rule of Civil Procedure 12(b)(6) for failure to state a claim on which relief can be granted.

(. . . continued)
Supp. 875, 875 (D.D.C. 1989); *Ray v. District of Columbia*, 535 A.2d 868, 869 n.2 (D.C. 1987); *Braxton v. Nat'l Capital Hous. Auth.*, 396 A.2d 215, 216-17 (D.C. 1978).

> In so doing, we apply the same standard the trial court was required to apply, accepting the factual allegations in the complaint as true and viewing all facts and drawing all reasonable inferences in favor of the plaintiff. To pass muster, a complaint must allege the elements of a legally viable claim, and its factual allegations must be enough to raise a right to relief above the speculative level.

Falconi-Sachs v. LPF Senate Square, LLC, 142 A.3d 550, 554 (D.C. 2016) (citations, internal quotation marks, and brackets omitted).

III. Analysis[2]

1. Wrongful Detention and Abuse of Process

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[2] The District devotes a significant portion of its appellate brief to arguing that appellant's entire complaint is barred by the "favorable termination rule" because appellant entered into a diversion agreement in a related criminal case, in which she admitted guilt, citing *Heck v. Humphrey*, 512 U.S. 477 (1994); *Hayward v. Cleveland Clinic Found.*, 759 F.3d 601, 608-09 (6th Cir. 2014); *Gilles v. Davis*, 427 F.3d 197, 212 (3d Cir. 2005); *Taylor v. Gregg*, 36 F.3d 453, 456 (5th Cir. 1994); *Roesch v. Otarola*, 980 F.2d 850, 853 (2d Cir. 1992); and *Menard v. Mitchell*, 430 F.2d 486, 491 n.26 (D.C. Cir. 1970). The District acknowledges that it did not make this argument below, but urges that this court can affirm the judgment on grounds not raised or considered below. We note that the District's argument appears to be predicated upon facts alleged in a document that was not attached to the complaint or otherwise made part of the record below, and was not addressed by the trial court. Even if we assume that we can take judicial notice of the diversion agreement because it is a public record in a related court proceeding, *see, e.g.*, *Drake v. McNair*, 993 A.2d 607, 615-16 (D.C. 2010); *Outlaw v. United States*, 854 A.2d 169, 172 (D.C. 2004); Fed. R. Evid. 201, and assume further that the diversion agreement does not constitute a favorable termination of the criminal case, we do not need to reach the District's argument. We resolve this appeal, as the trial court did, by reviewing the substance of appellant's claims, consistent with our strong judicial policy favoring adjudication of cases on the merits. *See Vizion One, Inc. v. District of Columbia Dep't of Health Care Fin.*, 170 A.3d 781, 791 (D.C. 2017).

Appellant claimed that the District wrongfully detained her and engaged in abuse of process because she was "arrested and detained and she was never informed of the crime that she had committed." The trial court construed appellant's claim of "wrongful detention" as one of false imprisonment under D.C. law based on the facts alleged,[3] and dismissed it as barred by the statute of limitations. The trial court also dismissed the abuse of process claim, finding that appellant pled no facts that would support such a claim.

On appeal, appellant does not challenge the trial court's analysis of her "wrongful detention" claim as a false imprisonment claim, and she concedes that the statute of limitations for false imprisonment actions is one year. D.C. Code § 12-301 (4) (2012 Repl.). She also appears to acknowledge that, because she brought suit on May 24, 2016, three years after the events in question took place (on May 24, 2013), the false imprisonment claim was untimely. However, she contends that, because she also pled abuse of process, intertwined with false imprisonment, the one year statute of limitations should not apply; instead, her claim should be subject to the general three-year statute of limitations for causes of action, such as abuse of process, that are not enumerated in the relevant statutory section. *See* D.C. Code § 12-301 (8).

In support of her abuse of process claim, appellant alleged only that "no officer told her of the charges against her," though, as noted, she stated elsewhere in the complaint that one of the officers, in answer to a question from her friend, stated that appellant was being arrested because her license was suspended. On appeal, she contends that the District's practice of suspending driver's licenses for unpaid parking tickets and arresting individuals for driving on a suspended license is an abuse of process.

We have held that abuse of process "lies where the legal system has been used to accomplish some end which is without the regular purview of the process, or which compels the party against whom it is used to do some collateral thing which he could not legally and regularly be required to do." *Wood v. Neuman*, 979

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[3] *Enders v. District of Columbia*, 4 A.3d 457, 461 (D.C. 2010) ("The gravamen of a complaint for false arrest or false imprisonment is an unlawful detention. [T]he essential elements of false imprisonment are: (1) the detention or restraint of one against his or her will, and (2) the unlawfulness of the detention or restraint." (citations and internal quotation marks omitted)).

A.2d 64, 76 (D.C. 2009) (citation omitted); *see also Jacobson v. Thrifty Paper Boxes, Inc.*, 230 A.2d 710, 711 (D.C. 1967).

Driving on a suspended license is a crime punishable by up to one year in prison under D.C. Code § 50-1403.01 (e) (2018 Supp.), and appellant made no claim that the officers did not have a right to arrest her. She did not allege that the police or the DMV took any actions outside of regular processes or attempted to compel her to do something illegal. Taking all the facts in the complaint as true and drawing all reasonable inferences in favor of appellant, we find that appellant alleged, at most, that the DMV made an error in suspending her license, which it later corrected, and that the police acted within their purview to arrest her while her license was suspended.

We, therefore, find no error in the trial court's holding that appellant failed to state a claim for abuse of process. Accordingly, we need not decide whether a sufficiently pleaded claim for abuse of process could extend the statute of limitations for an interrelated false imprisonment claim.

Because appellant's abuse of process claim was insufficiently pleaded and appellant's false imprisonment claim was untimely, Count I of the complaint was properly dismissed.

2. Violation of Civil Liberties and Due Process

Appellant next alleged that her "due process rights and [] civil liberties [were] violated" by the District because she "was never notified . . . that she owed outstanding parking tickets . . . [or] of the consequences that she would suffer" for failure to pay these tickets (presumably suspension of her license). The trial court dismissed this claim, finding that appellant admitted that her car registration (as distinct from her driver's license) was expired and did not deny that she had outstanding parking tickets; thus, the police had probable cause to arrest her and her civil liberties and due process rights were not violated.

On appeal, appellant asserts that, contrary to the arguments of the District in the trial court, her claims for violation of due process and civil liberties are cognizable, making various nonspecific arguments regarding the general protections of the Constitution and the Bill of Rights, and taking issue with the District's entire scheme of parking tickets and license suspension. Ultimately, however, she fails to specify a common law, constitutional, or statutory cause of

action for her claims. Because she makes only vague and conclusory claims related to "due process" and "civil liberties," without pleading a cause of action that is cognizable under District law or alleging facts that would support a claim for a particular cause of action, her claims were properly dismissed.[4]

3. Negligence

Appellant alleged that the District was negligent in "protecting its residents' due process rights and assuring adequate notice of any infraction that could give rise to a criminal violation." As the trial court noted, this appears to be a due process claim couched in negligence terms. Appellant's due process claim was rightly rejected for the reasons described above. This claim must also fail when analyzed under the rubric of negligence, largely for the reasons articulated by the trial court.

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[4] We note that, as to appellant's complaints regarding the District's practices with respect to parking tickets, license suspension, and notice, we have held that operating a vehicle without a permit, *Santos v. District of Columbia*, 940 A.2d 113, 118 (D.C. 2007), and operating a vehicle after driver's license suspension, *Loftus v. District of Columbia*, 51 A.3d 1285, 1286 (D.C. 2012), are strict liability crimes that pass constitutional muster. We have also noted:

> Driver's licensing schemes are ubiquitous and familiar to all motorists, and compliance with their requirements is not onerous. Disregard for the obligation to have a valid permit to drive is not entirely innocent conduct, therefore, even if it reflects carelessness rather than deliberate flouting of the law. In addition, a driver's license cannot be suspended or revoked without due process, including both fair notice of a traffic violation charge and the potential penalties, and the right to a hearing. Admittedly, no system of procedural protections is perfect. Nonetheless, we think it extremely unlikely that any motorist *justifiably* will be unaware of the lawful forfeiture of his or her driving privileges.

Santos, 940 A.2d at 117.

"It is well-established that a claim alleging the tort of negligence must show: (1) that the defendant owed a duty to the plaintiff, (2) breach of that duty, and (3) injury to the plaintiff that was proximately caused by the breach." *Hedgepeth v. Whitman Walker Clinic*, 22 A.3d 789, 793 (D.C. 2011) (en banc). However, under the public duty doctrine:

> [T]he District is subject to liability for injuries arising from the negligence of its employees only if the duty owed to the plaintiff was a special duty to that person as an individual or as a member of a class of persons to whom a special duty is owed; the District cannot be sued if the duty it owed was a general duty to the public-at-large.

Auto World, Inc. v. District of Columbia, 627 A.2d 11, 13 (D.C. 1993) (citation and internal quotation marks omitted). A special duty on the part of the District arises from a "special relationship . . . [which] may be established by showing that a statute prescribes mandatory acts clearly for the protection of a particular class of persons rather than the public as a whole, or that there have been direct or continuing contacts between the plaintiff and the District" on which plaintiff justifiably relied. *Id.* (internal citations and quotation marks omitted).

Appellant pled no facts that would establish that the District owed her a special duty. She alleged no special relationship with the District, either by virtue of membership in a particular class of persons protected by statute, or by virtue of direct and continuing contacts. Instead, she made claims regarding the District's duties to provide notice to its residents regarding parking tickets and suspension of driver's licenses, i.e., duties that pertain to the public as a whole. Taking her allegations as true and drawing reasonable inferences in her favor, we find that appellant failed to make a showing on the first prong of the negligence inquiry: a duty owed to her by the District. She, therefore, failed to make out a claim of negligence and Count III was properly dismissed.

4. Intentional Infliction of Emotional Distress

Finally, in support of her claim for IIED, appellant alleged that she "endured the humiliation of an arrest with no knowledge as to why." However, as noted, her complaint stated that she did have such knowledge, as one of the officers told her friend that she was being arrested for driving on a suspended license. Her allegations in the complaint described an ordinary arrest: she "was told to get out

of her car, place her hands on the top of her vehicle and then told to put her hands behind her back, searched and hand cuffed [sic] in the streets." The trial court held that these allegations did not make out a claim for IIED.

"To prove a claim of intentional infliction of emotional distress, a plaintiff must show (1) extreme and outrageous conduct on the part of the defendant which (2) intentionally or recklessly (3) causes the plaintiff severe emotional distress." *Kitt v. Capital Concerts, Inc.*, 742 A.2d 856, 861 (D.C. 1999) (citation and internal quotation marks omitted). Moreover, "we have repeatedly stated that to be actionable, conduct must be so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency." *Id.* (citation, internal quotation marks, and brackets omitted). Such conduct "does not include 'mere insults, indignities, threats, annoyances, petty oppressions, or other trivialities.'" *Id.* (quoting *Homan v. Goyal*, 711 A.2d 812, 818 (D.C. 1998)).

Appellant did not allege any extreme or outrageous conduct on the part of the police officers: she did not allege that they used or threatened physical force, used abusive language, or otherwise acted in an indecent manner. Nor did she allege any facts that would suggest that the police had any intention to distress her, or that she was, in fact, severely emotionally distressed. Construing the complaint most favorably to appellant, we find that she pled no more than "annoyances" or "petty oppressions" incident to a routine, lawful arrest. This is insufficient to make out a claim of IIED and the trial court therefore properly dismissed Count IV.

IV. Conclusion

For the foregoing reasons, the judgment is

Affirmed.

ENTERED BY DIRECTION OF THE COURT:

Julio A. Castillo

JULIO A. CASTILLO
Clerk of the Court

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District of Columbia
Court of Appeals

No. 16-CV-1251

JACQUELINE M. KING,

Appellant,

v. **CAB3948-16**

DISTRICT OF COLUMBIA, *et al.*,

Appellees.

BEFORE: Blackburne-Rigsby, Chief Judge; Glickman, Fisher, Thompson, * Beckwith, Easterly, * and McLeese, Associate Judges; and Ruiz, * Senior Judge.

ORDER

On consideration of appellant's petition for rehearing or rehearing *en banc*, it is

ORDERED by the merits division* that the petition for rehearing is denied; and it appearing that no judge of this court has called for a vote on the petition for rehearing *en banc*, it is

FURTHER ORDERED that the petition for rehearing *en banc* is denied.

PER CURIAM

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APPENDIX C