

Date of Signing 4-3-2020

Signature of Plaintiff Lawrence E. Mattison

Printed name of plaintiff LAWRENCE E. MATTISON

APPENDIX

Certification under Fed. R. of Evid 901 ..... 8

Excerpts from E.D. Va. case 4:17-CV-134 which show the 4<sup>th</sup> Cir  
condoned an unlawful act by a DVA police officer  
in violation of the supremacy clause ..... APP 1

CERTIFICATION

Petitioner; Lawrence E. Mattison, by sign do by declare under penalty of perjury that the  
enclosed appendix documents can be found in E. D. Va. case 4:17-CV-134 (U.S. Sup  
Ct. case 19-7669), ECF No. 102 @ 18-22 related to the DVA police officer only. see  
*Fed. R. of Evid 901(a)(b)(7)*

sign, Lawrence E. Mattison

Lawrence E. Mattison

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**D. Detective Willis's Motion to Dismiss**

Plaintiff claims that Detective Willis, a "police detective with the Department of Veterans Affairs," went to a state court magistrate and "initiated criminal arrest warrants alleging [P]laintiff was in violation of State law by acts committed on federal property." Am. Compl. at 2, 7. According to the state court records, the magistrate issued an arrest warrant on March 25, 2015, after determining, based on the sworn statements of Detective Willis, that probable cause existed to believe that Plaintiff committed the offenses charged. *Id.*, Exs. 1-1, 1-3. On June 23, 2015, Plaintiff was arrested by an officer of the Hampton Police Department. *Id.* Plaintiff was convicted of the criminal charges following a trial before the Hampton General District Court on December 15, 2015, and after filing an appeal, Plaintiff was convicted of the criminal charges following a trial before the Hampton Circuit Court on May 25, 2016. *Id.*, Exs. 1-1, 1-2, 1-3, 1-4, 2-1, 2-2. Plaintiff claims that Detective Willis lacked authority "to go around

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<sup>8</sup> The Court notes that Judge Zamora, like Mr. O'Boyle, also argues that the claims asserted against her are precluded by the CSRA. Mem. Supp. Judge Zamora's Mot. Dismiss at 12-13, ECF No. 67. As explained above, to the extent Plaintiff intends to challenge the termination of his federal employment, such challenge would be covered by the CSRA, and judicial review of Judge Zamora's MSPB decision would not be within the jurisdiction of this Court. *See supra* note 7. The Court further notes that Judge Zamora's Motion to Dismiss contains additional arguments for dismissal; however, because the Court grants Judge Zamora's Motion to Dismiss based on the aforementioned reasons, the Court need not reach the merits of Judge Zamora's alternative arguments.

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the DOJ or U.S. Attorney to a state court magistrate.” *Id.* at 13. Plaintiff also appears to claim that Detective Willis conspired with others to violate his rights. *Id.* at 4, 6, 14-16.

In her Motion to Dismiss, Detective Willis argues that, to the extent Plaintiff’s claims are based on the testimony provided by Detective Willis during Plaintiff’s state court criminal trials, such claims are barred by the doctrine of absolute immunity. Mem. Supp. Detective Willis’s Mot. Dismiss at 7-9, ECF No. 73. The Court agrees. In *Imbler v. Pachtman*, 424 U.S. 409, 439 (1976), the United States Supreme Court explained the need for extending the doctrine of absolute immunity to testifying witnesses. The Court explained:

It is precisely the function of a judicial proceeding to determine where the truth lies. The ability of courts, under carefully developed procedures, to separate truth from falsity, and the importance of accurately resolving factual disputes in criminal (and civil) cases are such that those involved in judicial proceedings should be given every encouragement to make a full disclosure of all pertinent information within their knowledge. For a witness, this means he must be permitted to testify without fear of being sued if his testimony is disbelieved.

*Imbler*, 424 U.S. at 439; see also *Rehberg v. Paulk*, 556 U.S. 356, (2012) (noting that there is no reason “to distinguish law enforcement witnesses from lay witnesses” with respect to the application of absolute immunity for witness testimony). Therefore, to the extent Plaintiff’s claims against Detective Willis are based on Detective Willis’s witness testimony, such claims are barred by the doctrine of absolute immunity.

Next, Detective Willis argues that any claims asserted against her that are based on the sworn statements she made to the state court magistrate in March of 2015 are time-barred. Mem. Supp. Detective Willis’s Mot. Dismiss at 9-10. The Court agrees. As explained above, the state court magistrate issued an arrest warrant for Plaintiff on March 25, 2015, after determining, based on the sworn statements of Detective Willis, that probable cause existed to believe that Plaintiff

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committed the offenses charged. Am. Compl., Exs. 1-1, 1-3. On June 23, 2015, Plaintiff was arrested by an officer of the Hampton Police Department. *Id.* As such, Plaintiff knew – or should have known – of the statements made by Detective Willis to the state court magistrate by June 23, 2015 at the latest. However, Plaintiff did not initiate this lawsuit until November 13, 2017. IFP Appl., ECF No. 1.

A federal court in Virginia applies a two-year statute of limitations to *Bivens* claims, as well as claims under § 1985. *Ciralsky v. CIA*, No. 1:10cv911, 2010 U.S. Dist. LEXIS 120617, at \*24 (E.D. Va. Nov. 15, 2010) (explaining that Virginia’s two-year statute of limitations for personal injury claims applies to *Bivens* and § 1985 claims). Because Plaintiff initiated this lawsuit more than two years after Plaintiff knew – or should have known – that Detective Willis made statements to a state court magistrate regarding Plaintiff’s alleged criminal activity, any *Bivens* claim or § 1985 claim based on such activity is time-barred.<sup>9</sup>

Detective Willis also argues that Plaintiff’s claims against her are barred by the doctrine of qualified immunity. Mem. Supp. Detective Willis’s Mot. Dismiss at 14-28, ECF No. 73. The Court agrees. As discussed above, “[q]ualified immunity protects government officials performing discretionary functions from civil damage suits as long as the conduct in question does not ‘violate clearly established rights of which a reasonable person would have known.’” *Altamira-Rojas v. City of Richmond*, 184 F. Supp. 3d 290, 294 (E.D. Va. 2016) (quoting *Harlow v. Fitzgerald*, 457 U.S. 800, 818 (1982)); *see supra* Part II.C.

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<sup>9</sup> The Court notes that § 1986 claims must be filed “within one year after the cause of action has accrued.” 42 U.S.C. § 1986. Plaintiff includes § 1986 as one of the several claims against the “federal official” Defendants on page 4 of his Amended Complaint. Am. Compl. at 4. However, it does not appear that any of the alleged conduct of Detective Willis would lend itself to a timely § 1986 claim.

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It appears to the Court that all of Plaintiff's claims against Detective Willis stem from Plaintiff's belief that Detective Willis lacked the authority to provide a sworn statement to a state court magistrate which, in this case, led to the initiation of a state court criminal proceeding against Plaintiff for state law crimes that allegedly occurred on the HVAMC property. Am. Compl. at 2, 7, 13. In her Motion to Dismiss, Detective Willis argues that Plaintiff cannot establish that any of his rights that Detective Willis allegedly violated "were clearly established such that Det[ective] Willis would have known she was breaking the law." Mem. Supp. Detective Willis's Mot. Dismiss at 26. The Court agrees.

As explained above, according to the state court records, the state court magistrate determined, based on the sworn statements of Detective Willis, that there was probable cause to believe that Plaintiff committed certain crimes.<sup>10</sup> Am. Compl., Exs. 1-1, 1-3. As a result, an arrest warrant was issued, and Plaintiff was subsequently arrested by an officer of the Hampton Police Department. *Id.* Additionally, as summarized above, in 1977, the United States "retrocede[d] and relinquish[ed] to the Commonwealth of Virginia, such measure of legislative jurisdiction as is necessary to establish concurrent jurisdiction over lands comprising . . . the Veterans Administration Center at Hampton." *Id.*, Ex. 3-2.

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<sup>10</sup> The Court notes that Virginia law authorizes any person to initiate a criminal complaint – which consists of a sworn statement regarding the commission of an alleged offense – however, if the complainant is not a "law-enforcement officer," the sworn statement is to be "reduced to writing." Va. Sup. Ct. R. 3A:3; *see also* Va. Code § 19.2-72. Here, it is unclear to the Court whether (i) the sworn statement of Detective Willis upon which the magistrate relied to find probable cause was reduced to writing, or (ii) whether Detective Willis constituted a "law-enforcement officer" whose sworn statement need not be reduced to writing. Nevertheless, as explained in this section, it is clear to the Court that none of the allegations in Plaintiff's Amended Complaint regarding Detective Willis describe the violation of a clearly established right belonging to Plaintiff.

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Under these circumstances, the Court finds that the allegations in Plaintiff's Amended Complaint regarding Detective Willis (*i.e.*, that she lacked the authority to provide a sworn statement to a state court magistrate regarding state law crimes that allegedly occurred on the HVAMC property) do not describe the violation of a clearly established right belonging to Plaintiff of which a reasonable person would have known. Consequently, the Court finds that Detective Willis is entitled to qualified immunity for all of Plaintiff's claims asserted against her. The Court also finds, as it did with Mr. O'Boyle and Judge Zamora, that Plaintiff's claims that Detective Willis participated in a conspiracy to violate Plaintiff's rights, are conclusory in nature and factually unsupported. For these reasons, Detective Willis's Motion to Dismiss, ECF No. 72, is **GRANTED**.<sup>11</sup>

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<sup>11</sup> Because the Court grants Detective Willis's Motion to Dismiss based on the aforementioned reasons, the Court need not reach the merits of Detective Willis's alternative arguments for dismissal.

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