No. _____

ORIGINAL

25-5709

IN THE

SUPREME COURT OF THE UNITED STATES

_____

Fateen Grace — PETITIONER
(Your Name)

vs.

Detective McGoldrick, et al. — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

United States Court of Appeals
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Fateen Grace QN0425
(Your Name)

1100 Pike street
(Address)

Huntingdon, Pa. 16654
(City, State, Zip Code)

_____
(Phone Number)

QUESTION(S) PRESENTED

1. Does qualified immunity protect and foreclose the plainly incompetent police officers and those who known or should have known that misrepresented omissions violate constitutional rights?

2. Did District Court err with consideration responding officers lacks proof of personal involvement when complaint and other documents were exhibits of proof by perponderance of evidence?

3. Did District Court err by drawing inference in favor of the Defendants and not the Plaintiff when demonstrating the inquiry of violation of Constitutional rights?

LIST OF PARTIES

[ ] All parties appear in the caption of the case on the cover page.

[X] All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

1. Detective McGoldrick
2. Detective Roth
3. Detective Price
4. Officer Vivarina
5. Officer Travaline

RELATED CASES

Franks v. Delaware

Commonwealth v. Antoszyk (Pa. Super 2009)

Commonwealth v. Edmund (Pa. 1991)

TABLE OF CONTENTS

INDEX TO APPENDICES

TABLE OF AUTHORITIES CITED

CASES PAGE NUMBER

STATUTES AND RULES

OTHER

IN THE

SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

[ ] For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix A to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[X] is unpublished.

The opinion of the United States district court appears at Appendix A to the petition and is

[X] reported at Lexis Nexis; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

[ ] For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

[ ] reported at _____; or,
[ ] has been designated for publication but is not yet reported; or,
[ ] is unpublished.

JURISDICTION

[X] For cases from **federal courts:**

The date on which the United States Court of Appeals decided my case was 12-20-24.

[ ] No petition for rehearing was timely filed in my case.

[X] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: 1-22-25, and a copy of the order denying rehearing appears at Appendix B.

[ ] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A_____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

[ ] For cases from **state courts:**

The date on which the highest state court decided my case was _____. A copy of that decision appears at Appendix _____.

[ ] A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

[ ] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A_____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

4th Amendment of the United States Constitution

4th Amendment of the Pennsylvania Constitution

Article 1, Section 8 of the Pennsylvania Constitution

STATEMENT OF THE CASE

PROCEDURAL HISTORY

On June 14,2019 police were called to the Harrison Hide Out Bar where the, Plaintiff,Fateen Groce was a resident renting a efficiency room. Complainant,Denise Stippick, accused him of having strangled,picked up the Complainant and carried her into Apt.A, located at 6378 Torresdale Ave. Complainant stated that while inside the location the Plaintiff,Fateen Groce, attempted to take off the Complainant's blouse,causing the button to pop off. Complainant stated he wanted to perform oral sex on her. She also stated that the Plaintiff scratched her all over ,on her neck, arms, chest, stomach, and vaginal area. The Plaintiff was identified later as Fateen Groce with false allegations as a basis for the Probable Cause and for the warrant.

The Detectives and police officers of the Philadelphia Police Department, in this case, failed to investigate the lead from John Vertikus,failed to collect the evidence from the scene,interview store owners, with cameras attach to their businesses and made a unilateral decision to what was credible to the Affidavit of Probable Cause.The Plaintiff,Fateen Groce, was arrested on July 22,2019 with false allegations allegedly filed against him and was charged excessively with multiple charges associated with sexual assault. On November 14,2019 the prosecution withdrawn prosecution because the Complainant failed to appear after alluding to Iowa from her false allegations.

On Noovember 14,2021, Plaintiff , Fateen Groce later filed a Section 1983 for: 1.)Malicious Prosecution pursuant to section 1983 2.)Due Process Violations 3.)Civil Rights Conspiracy 4.)Failure to intervene 5.)Supervisory Liability 6.)Municipal Liability 7.)Pennsylvania Law Violations for Defendants working individually in concert with fabricated statements, coerced a false statement, and with held exculpatory evidence among other misconducts. Plaintiff,Fateen Groce, also filed Monell Claims: 1. Using coercive techniques to obtain statements 2. Prolonged interrogatory interviews 3.Fabricating incriminating statements from witnesses 4. Failing to discipline officers who engaged in the unconstitutional conduct 5. Ignoring systematic police misconduct and abuse of civilian rights 6. Failing to discipline officers who fail to report the unconstitutional conduct of fellow officers.

Plaintiff Fateen Groce, received tort injuries sustained by the events alleged above such as: a.) Deprivation of Life b.) Deprivation of Liberty C.)Infliction of Emotional Distress D.)Post-Traumatic Stress Disorder E.) Consortium F.)Bipolar G.)Instantly Isolation H.)Defamation I.)Slander j.)Slander.

The Plaintiff,Fateen Groce, is seeking relief for monetary relief of Actual Damages at the amount of $270,000.00 and requesting relief of Consequential Damages of the amount of $650,000.00 for mental health evaluations and unemployment difficulties.

The Eastern District Court of Pennsylvania Ordered and Adjudged the judgment on July 9,2024 without notice to the Plaintiff,of opinion, until finally receiving judgment from Legal Mail Authorities in SCI-Huntingdon seven months later. Petition for Rehearing was denied January 22,2025.

SUMMARY OF THE ARGUMENT

FACTUAL HISTORY:

On 6-14-2019 Complaintant Denise Stippick was walking east on Bridge st. coming to the traffic light on trhe corner of Jackson st. The Plaintiff, Fateen Groce, saw the Complainant and asked her "why was she weeping?" She responded that "I had to leave early because I was suspended at work". The Plaintiff asked her "where you work at?" She said "Olive Garden", she let the Plaintiff know it was located on the Boulevard. He said (Plaintiff) "you don't have to cry we can watch some movies at my place, and have a couple of drinks,you already went to Wine and Spirits, I see your bag".The Plaintiff then asked "what did you buy?" Complainant said "Fireball". The Plaintiff said " you don't have to cry we can walk through Jackson st. to get to my room." Complainant responded " okay". The Plaintiff asked "what else do we need before we go in?" Complainant said "I just want some drugs". The Plaintiff and Complainant walked through Jackson st. until the intersection of Ditman and Jackson st., walked up Ditman, north to the intersection of Ditman and Robbins Ave.,walked east, to Torresdale and Robbins Ave., and then walked north, to the location incident to arrest at 6378 Torresdale Ave. The Plaintiff's' room was on top of the Harrison Hide Bar. The Plaintiff unlocked the front door and they both entered. Upon the door was apartment room door "A". When the Plaintiff unlocked the room door he stated "don't sit on my bed with your clothes on, because I don't want any bedbugs". The Plaintiff was locking the residence to the room and learned that the Complainant took her pants off. Upon noticing her sitting on the bed without any pants,the Complainant said " I hope we're not having sex?. The Plaintiff responded "No!" that they were not having sex,then said "and you can put your stuff back on and you can leave". Complainant responded "okay". The Plaintiff stated "the Fireballis staying with me though". Without a question th eComplainant went downstairs to the Harrison Hide Out Bar. The Plaintiff went to the Bar downstairs and noticed the Complainant talking to the Bartender Ashley. The Plaintiff use dthe Mens' room then exit and asked "Ashley is she okay?" Ashley said "just go". The Plaintiff never knew what the conversation was about but exit the Bar without concern.

Unfortunately the Plaintiff was robbed that night walking in the Frankford area entered Nazerath Hospital. The next morning after being discharged, the Plaintiff went to the Harrison Hide Out Bar to speak with the Landlord, because his keys were taken along with his phone. The Bartender Ms. Nicole informed the Plaintiff that "the girl who was in your room said you raped her". The Plaintiff was shocked. When the Landlord arrived she said "the police was out here all night waiting for you to come back but nobody believed her because she looked like she was lieing. The Captain that was waiting didn't believe her."

Denise Stippick implicated the Plaintiff in the criminal conduct and her statement deviated in material ways from the initial situation:

Denise Stippick stated that on 6-14-19 at approximately 7:30pm she was walking on Torresdale Ave., in the area of 6300 Torresdale Ave. when an unknown male later I'D'd as Fateen Groce grabbed her by her neck picked her up and carried her into apartment "A". She stated that while inside the apartment the Plaintiff attempted to take off her blouse causing her the button to pop. She stated the

Plaintiff attempted to pull down her pants telling her he wanted to perform oral sex on her. She also stated that while trying to fight the Plaintiff off the Plaintiff scratched her all over.She Stated that when the Plaintiff went to get a drink of water she ran out the apartment and ran downstairs into Harrison hide out Bar. She stated there was no penetration.

UNDISPUTED FACTS:

Plaintiff asserts that the Complainants statement created the impermissible bias against the Plaintiff and prevented the prosecution from reaching a proper discretionary decision. The trial court repeatedly allowing the Defendants' to reference Plaintiff, Mr.Groce, as the perpetrator of a crime deprived the Plaintiff of his life and liberty. The trial court letting the Defendants submission of false statements to the prosecutor, tell the court , that the Police Department was worried only about Ms.Stippicks' security before impermissibly shifting the focus from the facts of the case to an attack on the role of the Plaintiff prior offenses. This concludes that Ms. Stippicks' false statements or omissions, giving the Plaintiffs' objections, prejudiced the Plaintiff against any alleged allegations made permissible for Probable Cause and Arrest Warrant. The error have contributed to the Probable Cause which holds the Officers liable for the initiation of legal process by unlawful means. Under the facts of this case, the Plaintiff absence is not disputed, the Complainant firsthand knowledge of identity and the other evidence linking him to the scene have not depended on Ms. Stippicks' statement to be credible. Mr. Groce argues that this evidence is so irrelevant to the finding of Probable Cause because of the Fruit from a Poisonous Tree Doctrine. Where the only contested issue was reasonable suspicion not whether the Police had Probable Cause. Even if the nature of the Plaintiff prior offense charges was relevant, the Plaintiff avers, that the danger of unfair prejudice outweigh its probative value because the prosecutor emphasized the crime on the basis of Probable Cause, which were false on its face.

In considering the sufficiency of the information this Court should consider what is in the Affidavit and rule this statement to be redacted. The Plaintiff avers the Affidavit materially misrepresented what took place and deviated in material ways from what took place in the apartment. Plaintiff argues that because Detective McGoldrick initiated the process of the complaint, that Plaintiff had access to the apartment, and had similar offenses,to the night in question, it was a material misstatement of fact, to state in the Affidavit, that the Plaintiff was the perpetrator of the incident to arrest. Plaintiff urges that the existance of such a material misstatement of fact on the face of the search warrant requirethat it be declared invalid. (citing Commonwealth v. D'Angelo 437 pa. 331,263 A. 2d 441(1970). Mr.Groce asserts that giving Detective McGoldricks' background it is beyond the realm of credulity that the misstatement was an error and urges this Court to find that the District Court findings that the error was unintentional to be unsupported by the evidence ,and reason, to reverse the disposition of the proceeding, and award Plaintiffs' request for relief as the result of the issued execution of the search warrant. These officers acted in concert with the deliberate indifference towards the Plaintiff and made a unilateral decision to what the materiality of the information and the circumstances,thus, satisfied himself that Probable Cause existed, when merely informing the Magistrate judge of inculpatory evidence.(Wilson v. Russo 212 F. 3d 781, 786 (3rd. Cir.2000)).

BIAS MOTIVE,ILL-WILL:

Defendants had to reactto the incident bias. Yhe event was on June 14,2019 which was the height of the #Me Too movement in the unlenient moments of the United States.Christine Blasey Ford testified against now Justice Brett Kavanaugh before the Senate Judiciary Committee alleging that he sexually assaulted her while they were in high school. Bill Cosby was sentenced to prison for a sexual assault and Mario Batali was asked to step down from the ABC show he had been co-hosting in the wake of sexual assault allegations. Now Plaintiff suffers as a result.

The impact of the #Me Too movement was felt acutely on University campuses. It also permeated through the court system where courts have since addressed the impact of external pressure on Universities responding to Title IX claims. see e.g. Simon v. Yale Univ. 2024WL182208 at 9 (Yale School of Medicine) had taken a faculty member who was guilty of sexual harrassment and was leaving him in a leadership position, which was distinguished from acting upon pressures from the #Me Too movement and Defendant recognized (over the previos decade) a justified increase in the awareness of sexual harrassment and in public attention to the official response thereto).

The Third Circuit has recognized that public pressure while insufficient alone to state a claim that the University acted with bias in the Title IX content, is relevant to allegingf a claim of sex discrimination. In Doe v. University of the Sciences, 961 F. 3d 302 (3d Cir. 2020) the male Plaintiff alleged that USciences in its implementations and enforcement of its sexual misconduct policy, succumbed to external pressure from the federal government. Id at 209. In particular, the male Plaintiff asserted that, after the Department of Education issued the 2011 Dear Colleague Letter USciences "limited procedural protections afforded to male students like (doe) in sexual misconduct cases" and that the school encouraged by federal officials has unstituted solutions to sexual violence against women that abrogate the civil rights of men diferently then women. Id at 209-210.

With respect to external pressures from the Department of Education, the Third Circuit in USciences noted that the 2011 Dear Colleague Letter ushered in a more rigorous approach to campous sexual misconduct allegtions. Id at 210. (citing Doe v. Purdue Univ. 928 F. 3d 652, 668(7th Cir. 2019)). this precedential decision further noted that an official from the Department of Education's Office of Civil Rights warned that some schools still are failing their students by responding inadequately to sexual assaults on campus. "For those schools my office in Department of Education and the Administration have made it clear that the time for delay is over" (citing Purdue Univ. 928 F. 3d at 668 (citing Examing Sexual Assault on Campus, Focusing on Working to Ensure Student Safety, Hearing Before the Sen. Comm. On Health ,Educ., labor, And Pensions, 113th Cong. 7(2014)(statement of Cathrine Lhamon, Assistant Secretary for Civil Rights, U.S. Depart.of Educ.) The Third Circuit in USciences

ultimately held that the Plaintiff states a plausible claim of sex disrimination based on his allgation about selective investigation/enforcement in combination with his allegation related to external pressure from the Department of Education UScience is not an anomaly. Title IX Plaintiffs have also argued in other cases that a University's interest in combating sexual assault stemming from internal and external pressures is an indicator of gender bias. In Doe v. St. Joseph Univ. 832 Fed. Appx.770(3d Cir.2020)(NPO) the Plaintiff argued that his University emphasis on combating sexual assault reflects the school gender bias. He noted, for example, that (1) a school presentation encouraged students to believe and support those who claimed to be victims of sexual assault (2) the University had a financial incentive a federal grant to encourage students to report sexual misconduct and (3) the University retained its existing sexual misconduct policy in the face of new guidance from the United States Department of Education . Id at 778. In the (nonprecedential) opinion, the Third Circuit found that all these facts are gender neutral but noted that "some courts have properly pointed to internal or external pressure when evaluating gender bias in cases containing indicia of specific intent to punish male students " Id citing Doe v. Univ. of Scis. 961 F. 3d 203 (3d Cir.2020)(gender bias plausibly alleged where the school, encouraged by federal officials had instituted solutions to sexual violence against women that abrogate the civil rights of men and treat men differently than women.) Menaker v. Hofstra Univ. 935 F. 3d 20,27 (2d Cir. 2019)(gender bias plausibly alleged where,among other things the school faced internal criticism for its assertedly inadequately reponse to male sexual misconduct on campus.) Doe v. Purdue Univ. 928. F. 3d 652, 669 (7th Cir. 2019)(gender bias plausibly alleged where among other facts school affiliated group shared an article titled "alcohol is'nt the cause of sexual assault. Men are."); Doe v. Baum 903 F. 575,586 (6th Cir.2018)(gender bias palusibly alleged where for example news media consistently highlighted University's poor reponse to female complianant.";Doe v. Miami Univ. 882 F. 3d 579,594 (6th Cir. 2018)(gender bias plausibly alleged where school was being sued by a female student for failing to expel her alleged attacker.) Similarly, Doe v, Columbia Univ. 831 F. 3d 46 (2d Cir. 2016) the Second Circuit in vacating the District Court judgement dismissing a Title IX male Plaintiff's compliant noted that the Complaint gives "ample plausible support to a bias with respect to sex" where it includes allegations that there was substantial criticism of the University both in the student body and in the public media, accusing the University of not taking seriously complaints of female students alleging sexual assault by male students. Id at 57. In this case defendants were male bias.

MALICIOUS PROSECUTION:

The Court has been more inclined to find a primary interest reasonable when a person has the right or practical ability to exclude others and has regularly or at least deliberately exercised that right. See Kyllo,533 U.S. at 40 ("The Fourth Amendment draws not only a firm but also a bright line at the enterance to the house". (citation and quotations omitted)

Pursuant to the paradigm set up in Wallace, a 1983 Plaintiff claim based on wrongful detention are either analogous to the tort of false imprisonment (if the claims are premised on wrongful detention pursuant to the wrongful use of legal process) See Mondragon v. Thompson 519 F. 3d 1078, 1082 (10 Cir.2008)(if a victim has been imprisoned pursuant to legal but wrongful process he has a claim analogous to a tort claim for malicious prosecution). The initiation in the criminal case in Halsey the falsely statement that the police claimed they obtained from Halsey contributed to the prosecutors decision to charge Halsey. This is the same, Ms. Stippick statement has contributed to the prosecutors decision to charge Plaintiff, Mr.Groce, and for that reason, the Court treated the decision to prosecute as an intervening act obsolving officers from liability. Moreover, without that false statement there would not have been direct evidence linking Mr.Groce to the crime so that the prosecutor would not have had cause to prosecute Mr.Groce. Halsey v. Pfeiffer 750 F. 3d 273 (2013) This was wrong because the false statement can be admissible at trial. Officers engaged in conduct before Ms. Stippick signed the purported statement and before the prosecutor charged Mr.Groce with the commission of thew crime that later injured him. officers allegedly inserted non-public facts about a crime (of which Mr.Groce could not have been aware) into a detailed false statement that Mr.Groce maintains he never did. The purported fabrication was double edged:

They tolds the prosecutor that Groce had committed a crime even though he had not done so,and they included critical details in the false statement to enhance its credibility in order to induce the prosecutor to proceed against Groce. Ms. Stippick statement was quite relevant because it played a crucial role in the prosecutors' decision to charge Mr. Groce. Johnson v. Knorr 477 F.3d 75 (3d Cir. 2007) In Johnson, the Plaintiff, Jamal Johnson fused his fabrication of evidence and malicious prosecution claims by arguing that the District Court had erred in dismissing his malicious prodsecution count that he based in part on allegations that evidence against him, was fabricated. see Johnson 477 F. 3d at 81. But Johnson did not argue that a fabrication claim could have give rise to a stand alone cause of action accordingly. The state actors do not contend that they were not acting under color of state law when they questioned Ms. Stippick during the investigation for the alleged crime. In Rodgers v. Pennsylvania State police (2024) significantly in a malicious prosecution case suit a grand jury indictment or presentment constitutes Prima Facie evidence of Probable cause to prosecute. See Woodyard v, City of Essex 514 F. App'x 177,183 (3d Cir. 2013)(quoting Rose v. Bartle 871 F. 2d 331,353 (3d Cir. 1989); Trabal v. Wells Fargo Armored Serv. Corp. 269 F. 3d 243,251 (3d Cir. 2001)(noting that on indictment establishes probable cause by definition.) This is called the "presumption of Probable Cause". Rodger who was charged as recommended by the grand jury presentment can only rebut it by showing that the presentment has resulted from fraud, perjury, or other corrupt means. Costino v. Anderson 786 F. App'x 344,347 (3d Cir.2018) To make that showing Rodger suggests that corrupt means should be presumed at this stage not only, from the fact that, without any new evidence being uncovered, but also because the presentment was successfully procured on wholly circumstantial evidence and in the absence of potentially exculpatory evidence. In effect he argues that Defendants maliciously reinstituted the proceedings without probable cause which in and of itself is tantamount of fraud,perjury, or other corrupt means. Rodgers argues that probable cause was necessarily lacking due to the troopers ignoring ands mishandling potentially

exculpatory evidence including their failure to collect and preserve victims clothes and produce tissue samples. This is identical to Mr.Groce pleadings, that the probable cause was necessarily lacking due to the police ignoring and mishandling potentially exculpatory evidence including their failure to collect and preserve Ms. Stippick clothes and produce medical records. Also undermining any possible finding of probable cause and the result of corrupt means when Defendants collected evidence from, John Vertikus and Ms. Stippicks' apartment. The misstatement of fact does not thwart probable cause . The evidentiary standard for probable cause is significantly lower than the standard which is required for conviction. Wright v. City of Phila. 409 F. 3d 595, 602 (3d Cir. 2005) It is therefore irrelevant in a probable cause inquiry " whether a person is later acquitted of the crime for which she or he was arrested". Unlike the causation question a probable cause inquiry is entirely objective. See e.g. Kulwicki v. Dawson 969 F. 2d 1454, 1468 (3d Cir. 1992) Thus, in Halsey, Hancocks ' view of the evidence is relevant only to the extent it explains what facts were available to him when he made his discretionary decision to initiate the proceedings against Halsey. See Devenpeck v. Alford 543 U.S. 146,153,125 S. Ct. 588, 593,160 L. Ed. 2d 537 (2004). (An arresting officers state of mind (except for the facts that he knows) is irrelevant to the existence of probable cause.); See also Bordenkircher v. Hayes 434 U.S. 357, 364, 98 S. Ct. 663, 6689, 54 L. Ed. 2d 604 (1978)(explaining that so long as there is probable cause a decision to charge or prosecute "rest entirely in the prosecution discretion.") "Courts should exercise caution before granting a Defendant summary judgment in a malicious prosecution case when there is a question of whether there was probable cause for the initiation of the criminal proceeding because generally the existence of probable cause is a factual issue. Where here there is no facts. Groman v. Twp of Manalapan 47 F. 3d 628, 635 (3d Cir. 1995) It certainly is inappropriate for a court to grant a Defendant (officers) motion for summary judgment in a malicious prosecution case if there are underlying factual disputes bearing on the issue or if reasonable minds could differ on whether he had probable cause for the institution of the criminal proceedings based on the information available to him. Deary v. Three-named-officers 746 F. 2d 185, 192 (3d Cir.1984) Here, by entering summary judgment on the malicious prosecution claim, the District Court, effectively, if not explicitly held that a reasonable jury could not conclude the appellees lacked probable cause to charge Mr.Groce even without the false statements. Mr.Groce argues that given the uncontroverted current evidence about the results of the false statements, as we know them, and the fact that Detective McGoldrick discussed the crime scene with the Defendants a jury should be free to infer that Travaline and Vivarina were aware that Mr.Groce was not in the mere presence of the scene, and Ms. Stippick had went home from the scene for an hour. Obviously, if they had that knowledge during their investigation of the crime the results could not have supported a real conclusion that they had probable cause to initiate the prosecution. Aside from Mr. Vertikus statement the District Court pointed to evidence of being identified this was proof that Ms. Stippick was aquainted with the Plaintiff, with statement to the police , from Bartender Ashley to support the filing charges against Mr.Groce. Accordingly, a reasonable prosecutor in the position to assist the Defendants would have believed that Mr.Groce based on his prior offense did it.

Two principles cabin this more specific inquiry: First, th Court accepts Plaintiffs' well supported allegations as true, Giles,511 F. 3d at 326 and second, the inquiry is fact specific but objective, Karnes v. Strutski,62 F. 3d 485, 491(3d Cir. 1995), abrogated on other grounds by, Curley v. Klem, 499 F. 3d 199(3d Cir. 2007). The inquiry can thus be restated this way: Is it consistent with Plaintiffs' account of the facts that reasonable officers in Defendants position could have believed that probable cause was present? Defendants maintain that reasonable officers could have found probable cause in such undisputed inculpating facts as the scratches on Ms. Stippicks' arm, history of violence against woman and Plaintiff cannot provide verifiable alibi. This evidence however tells only part of the story. Plaintiff has offered evidence to suggest that Defendants acting with malicious intent purposefully manipulated the evidence against him. Because the Court assumes the truth of this allegation, it must ask if a hypothetical officer who is purposefully manipulating evidence to construct a false case could reasonably believe that probable cause was present? The answer must be "no" while the complex doctrine of qualified immunity presents many close questions, all agree that it affords no protection to the plainly incompetent and those who knowingly violate the law. Malley v. Briggs,475 U.S. 335, 341,106 S.Ct. 1092, 89 L. ed. 2d 271(1986). Because Plaintiff allegation that Defendants "knowingly violated the law" is the core disputed fact of this litigation,qualified immunity is not available at summary judgment here.The Court acknowledges the counterintuitive possibility that an officer believing in the presence of probable cause could nonetheless fabricate evidence to further strengthen an already strong prosecutorial case. Although this possibility suggests that the purposeful manipulation of evidence is not necessarily at odds with an objectively reasonable finding of probable cause the doctrine of qualified immunity must not be expanded to absolve objectively bad actors. See. Hope 536 U.S. at 745-46(holding that qualified immunity does not shield officers whose degrading and dangerous conduct obviously violates constitutional protections, even when the law is unsettled)(citing United States v. Lanier, 520 U.S. 259, 271, 117 S.Ct. 1219, 137 l. Ed. 2d 432(1997). The Court cannot excise from the record the evidence favorable to Plaintiff position. Even if the untainted evidence considered in islolation amounts to probable cause a jury believing that Defendants maliciously fabricated a case against Plaintiff could still reasonably conclude viewing all the evidence in its totality that the Philadelphia Police Department officers proceeded against Plaintiff maliciously and without probable cause. Viewing all facts and reasonable inferences in Plaintiff favor, as the Court must, Plaintiff has established at this juncture of the proceedings that Defendants, Detective McGoldrick, Detective Ruth, Officer Vivarina, Officer Travaline violated his constitutional rights. Was the constitutional right at issue clearly established? The initial answer is straightforward: Falsifying facts to establish probable cause to make an arrest amd prosecute an innocent person is of course patently unconstitutional...Hinchman v. Moore 312 F.3d 198, 205-06(6th Cir.2002)(citing Hill v. McIntyre 884 F. 2d 271,275(6th Cir. 1989) Although the law has evolved in recent years it cannot seriously be disputed that the misconduct with which Defendants are charged- that is fabricating a case against Plaintiff clearly violated Plaintiff Fourth Amendement right to be free from unreasonable seizure since 1987 and 1988. See. Orsatti v. New Jersey State Police, 71 F.3d 480, 483(3d Cir.1995)(The right to be free from arrest except on probable cause was clearly

established in 1988 and 1989)Plaintiff seeks relief in Compensatory damages: $270,000.00 w/ Comsequential damages: $650,000.00

Fruit From a Poisonous Tree: When the underlying sourse of the police departments' information is an anonymous telephone call the court have recognized that a tip should be treated with particular suspicion. A tip from a known informant can be treated as more reliable then a tip form an unknown informant, because the known informant places himself or herself at risk of prosecution for failing to provide accurate information if the tip is untrue, whereas an unknown informant faces no such risk. which here is the case, because Ms. Stippck knew that she faced no such risk in pursuant to the misrepresented allegations. However, there is a vast difference between a caller who gives police her or his name and a caller with whom the police is familiar from the past experiences. Ms. Stippick never found no wrong in being able to create false allegations, for having Fireball Whiskey being taken from hr,and it made it more believable at the moment police provided photos to strengthen her claims. Her escape to Iowa was in reserve for her relief as the Plaintiff would have to suffer the consequences as women has no risk within the judicial system from these bias situations. Her culpability only relied on knowing who to blame. In Albert, the police received information from a named informant that they did not know from the past and who did not personally observe any criminal activity. If the police do not even know an informants' name, or have never had any dealings with the informer on prior occasions, then it cannot reasonably be said that they have any adequate basis to ascertain anything about the informants' reliability, veracity, or the accuracy of his or her tip. Mr. Groce indication of inocence was apparent under the pretext of the "withdrawal of Prosecution". The Defendants claim that the Plaintiff did'nt beat the case with no indication of innocence , but that power whether pursuant to state law or the Compulsory Process is no substitute for the right to Confrontation unlike the Confrontation Clause, those provisions are of no use to the defendant when the witness is unavailable or simply refuse to appear. See.e.g. Davis, 547 U.S. at 820, 126 S.Ct. 2266, 165 L.Ed 2d 224(The witness was subpoened, but she did not appear). Converting the prosecutions' duty under the Confrontation Clause into the Defendants privilege under state law or the Compulsory Process Clause shifts the consequences of adverse witness no show from the State to the accused. More fundamentally, the Confrontation Clause imposes a burden on the prosecution to present its witness not the defendant to bring those adverse witness into court. Its value to the defense is not replaced by a system in which the prosecution presents its evidence via ex parte affidavits. Indication of innocence was proven by the Plaintiff. In Murray v. United States, Justice Scalia had discussed what evidence should be excluded from trial:

"The exclusionary rule prohibits introduction into evidence of tangible materials seized during an unlawful search and of testimony concerning knowledge acquired during unlawful search. Beyond that the exclusionary rule also prohibits the introduction of derivative evidence both tangible and testimonial that is the product of the primary evidence, or that is otherwise acquired as an indirect result of the unlawful search, up to the point at which the connection with the unlawful search becomes so attenuated as to disipate the taint."

The standard for determining whether proper probable cause exists for the issuance of a search warrant is the totality of the circumstances test. The task of the issuing magistrate is simply to make a practical commonsense decision whether given all the circumstances set forth in the Affidavit before him including the veracity and basis of knowledge of persons supplying hearsay information there is a fair probability that contraband of evidence of a crime will be found in a particular case. These Defendants interfered with the disretion to make a proper decision to prosecute only afforded to the magistrate judge. There was no evidence collected from the crime scene in the Affidavit of Probable Cause or any evidence collected that was described in the search warrant. Such false information was for the sole purpose of influencing the magistrate judge by attempting to connect the Plaintiff to the evidence of the crime scene. And the duty of a reviewing court is simply to ensure that the magistrate had a substantial basis for concluding that probable cause existed. An existing prior allegation cannot suffice for the requisite probable cause determination while merely informing the magistrate judge of inculpatory evidence. Wilson v. Russo 212 F.3d 781,786 (3d. Cir. 2000). However, if a warrant is based upon an Affidavit which contains deliberate or knowing misstatements of material fact the search warrant must be rendered invalidated. In deciding whether a misstatement is material the test is not whether it is essential to it. The Plaintiff asserts that the Affidavit of Probable Cause supporting the search warrant was stale, lack specifity, and contained an material misstatement. Probable Cause for the search warrant has contained an intentional material misstatement of fact. The crucial piece of information contained in the Affidavit of Probable Cause is at best a overly broad assumption, misleading in nature, and spectulative, it was inaccurate and false. Given the extensive training of Detective McGoldrick, Detective Ruth, Detective Price, Officer Travaline, Officer Vivarina and extraordinary experience of these officers the same should have been known to them and the inclusion of such false information was for the sole purpose of influencing the magistrate judge by the attempting to connect the Plaintiff to the evidence of the crime scene. Plaintiff also argue that his early morning arrest without a valid search warrant was unlawful in the absence of a valid excuse for obtaining a valid warrant and further, his photo array identification was a forbidden fruit of the claimed invasion of his Fourth Amendment rights. Upon a determination that a out-of-court identification must be suppressed the court must conduct an independent assessment of whether the witness is permitted to identify the accused in court (i.e. at trial). This assessment is dictated by the terms set forth in United States v. Wdae 388 U.S. 218, 241, 87 S.Ct. 1926,1939 (1967). In United States v. Crews 445 U.S. 463, 471, 100 S. Ct. 1244, 1250 (1980) the Court reasoned;

this is not to say that the intervening photographic and lineup identification both of which are conceded to be suppressible fruits of the Fourth Amendement violation could not under some circumstances affect the reliabilty of the in-court identification and render it inadmissible as well. Hence, Crews should be read only as literally limiting the Fourth Amendement exclusionary rule' application to an in-court identification. Nothing in Crews supports a contention that out-of-court identification both pre-arrest and post-arrest cannot be supressed. United States v. Crews (1980)

NO GOOD FAITH EXCEPTION, ARTICLE 1,SECTION 8 OF PA. CONSTITUTION

The material deficiencies in the Affidavit of Probable Cause filed in the initial investigation which noting that Defendant Detective McGoldrick, Detective Ruth, Detective Price, Officer Travaline and Officer Vivarina can be liable for malicious prosecution where they influenced or participated in the decision to initiate or institute criminal proceedings cited in Halsey v. Pfeiffer 750 F. 3d 273, 297 (3d. Cir. 2014) In this case, a Detective secured a search

warrant purportedly supported by probable cause. The probable cause was based upon Ms. Stippick statement, which was false to the Detective that Plaintiff, Mr. Groce, was the perpetrator that assaulted her. The Detective relying upon Ms.Stippick accusation in good faith executed the search warrant leading to the seizure of the Plaintiff Mr. Groce, and serving an outstanding warrant from the Harrison Hide Out residential area. The Commonwealth contends that because the Detectives had relied upon Ms. Stippick assertion in good faith the outstanding warrant secured via the execution of the search warrant should not be invalidated. Mr. Groce on the other hand, argues that, because the Pennsylvania Constitution does not support good faith exception to Article 1,Section 8, the outstanding warrant should'nt have no basis for Probable Cause using excessive force to search the residence.

As a eneral rule, "if a search warrant is based on an Affidavit containing deliberate or knowing misstatements of material fact, the search warrant is invalid." Commonwealth v. Murphy 2002 PA Super. 83, 795 A.2d 997, 1006 (pa. Super. 2002)(*commonwealth v. Clark 412 Pa. Super. 92, 602 A. 2d 1323, 1325(Pa. Super. 1992)(plurality). Furthermore, 'misstatements of fact will invalidate a search warrant and require supprewssion of the fruit of the search only if the misstatement of facts are deliberate and material." Commonwealth v. Baker 2011 PA Super. 131, 24 A. 3d 1006, 1017(Pa. Super.2011) aff'd 621 Pa. 401, 78 A. 3d 1044 (Pa. 2013). A material fact is one without which probable cause to search would not exist. Commonwealth v. Tucker 252 Pa. Super. 594, 384 A. 2d 938, 941 (Pa. Super. 1978)

ARTICLE 1, SECTION 8 Of the Pennsylvania Constitution Provides:

The people shall be secure in their person, house, papers and possessions from unreasonable and seizure, and no warrant to search any place or to seize any person or things shall issue without describing them as nearly as may be, nor without probable cause, supported by oath or affirmation subscribed by the affiant. Pa. Const. Arty.1 Section 8.

Although similar in language and purpose Article 1,Section and the Fourth Amendment to the United States Constitution differ in at least one significant way that is essential to our resolution of this case. Commonwealth v. Edmund, 526 Pa. 374, 586 A. 2d 887, 895-96 (Pa. 1991) Analysis of and remedies for, violations of Article 1,Section8 focus upon the privacy of the individual while those under the Fourth Amendment focus primarily upon deterring police misconduct. Commonwealth v Antoszyk, 2009PA Super. 232,985 A.2d 975, 983 (Pa. Super. 2009) Plaintiff requested relief of $270,000.00 Compensatory and $650,000.00 Consequential damages with Motion to seal.

REASONS FOR GRANTING THE PETITION

In Murray v. United States Justic Scalia had discussed what evidence should be excluded from trial.

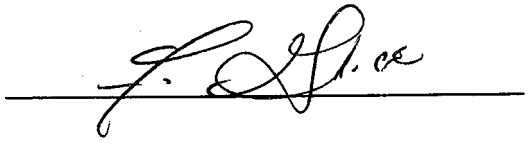
The exclusionary rule prohibits introduction into evidence of tangible materials seized during an unlawful search and of testimony concerning knowledge acquired during an unlawful search. Beyond that the exclusionary rule also prohibits the introduction of derivative evidence both tangible and testimonial that is the product of the primary evidence, or that is otherwise acquired as an indirect result of the unlawful search, up to the point at which the connection with the unlawful search becomes so attenuated as to dissipate the taint.

This Court should reverse summary judgment in favor of the Plaintiff and grant relief of Compensatory Damages of #270,000.00 and grant relief of Consequential Damages of #650000.00 with expungement of all charges on the record with interpretation of the constitutional provision of law to deter officers misconduct with misrepresented affidavits, complaints, and statements

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: _____