

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

FRANK PERRELLI, :
 :
 Plaintiff, :
 :
 v. : CIVIL NO. 3:01cv1464 (AHN)
 :
 WILLIAM TAYLOR :
 :
 Defendant. :

RULING ON DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

Plaintiff Frank Perrelli ("Perrelli") has brought suit against Defendant Trooper William Taylor of the Connecticut State Police Department ("State Police"), for false arrest and unreasonable seizure in violation of the Fourteenth and Fourth Amendments, respectively. Claiming qualified immunity, Defendant has filed a Motion for Summary Judgment [Doc. #8] pursuant to Fed. R. Civ. P. 56. For the reasons that follow, the motion is GRANTED.

BACKGROUND

Based on the record submitted by the parties, the court finds that the following facts are undisputed:¹

¹ In support of his motion, Defendant submitted affidavits from the following individuals: (1) James Fleming, Commissioner of Department of Consumer Protection ("Commissioner Fleming"); (2) Raymond Philbrick, Director of Safety and Security for the Department of Public Works ("Director Philbrick"); (3) Anna Ficeto, Counsel for the Real

As of June 15, 2001, Plaintiff was a licensed real estate professional residing in East Haven, Connecticut. Defendant was a state trooper assigned to the Troop H barracks in Hartford. Plaintiff was scheduled to attend a hearing on June 25, 2001, before the state Real Estate Commission ("Commission") in Hartford concerning whether the Commission should revoke his real estate license for failing to complete continuing education courses.

On or about June 15, 2001, Plaintiff left two threatening messages on Commissioner Fleming's voice mail in which he used profanity and indicated that he wanted to die. These messages troubled Commissioner Fleming, and gave him concern about Plaintiff's mental state as well as the safety of the Department of Consumer Protection staff. He forwarded these messages to Director Philbrick, who listened to them and determined that Plaintiff was, among other things, hostile, paranoid, and depressed. As a result, Director Philbrick proceeded to arrange for a security officer to be present at the hearing on June 25, 2001.

Estate Commission; (4) Defendant Trooper William Taylor; and (5) Laureen Rubino, Licensing Specialist for the Real Estate Commission. Defendant also submitted a Police Emergency Examination Request Form and Police/Investigation Report, both of which were dated June 25, 2001. In opposition, Plaintiff submitted only an affidavit signed by himself.

On June 25, 2001, before the hearing, Trooper Taylor met with Plaintiff at the Department of Consumer Protection in Hartford. Trooper Taylor observed Plaintiff to be unshaven, unshowered, and unkempt; his eyes were bloodshot; and his shirt was hanging outside of his trousers.

During the hearing before the Commission, Plaintiff openly cried, exhibited unstable behavior, and made the following statements: (1) that he had suffered from numerous nervous breakdowns; (2) that "everyone was out to get him"; (3) that he had been recently arrested at a bank on suspicion of carrying a gun; (4) that he had been previously hospitalized for psychiatric problems; (5) that he had an alcohol problem; and (6) that he loved birds.²

After the hearing, Defendant told Plaintiff that he was concerned about Plaintiff's mental health and arranged for an ambulance to bring him to Hartford Hospital.³ Plaintiff agreed to go to the hospital in the ambulance without incident; Defendant did not handcuff or arrest Plaintiff at

² In his affidavit, Plaintiff denies making any statements at the hearing that could be construed as angry or suicidal. Plaintiff, however, does not deny that the messages left on Commissioner Fleming's voice mail were angry or suicidal.

³ Although Plaintiff's Complaint and affidavit state that Defendant "seized" \$2,000 and his car keys from him, his opposition papers make no reference to this alleged seizure.

any point.⁴ Defendant drove in a separate car to the hospital, presented an emergency examination request form to the Emergency Room staff, and told Plaintiff that a physician would see him. Defendant then left the hospital.

Plaintiff has submitted no evidence suggesting that he resisted going to the hospital. Plaintiff also has provided no testimony from hospital personnel or any other witnesses corroborating that he was arrested and committed to the hospital against his will.

STANDARD

A motion for summary judgment may not be granted unless the court determines that there is no genuine issue of material fact to be tried and that the moving party is entitled to judgment as a matter of law. Fed. R. Civ. P. Rule 56(c); Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 256 (1986), cert. denied, 480 U.S. 937 (1987). The burden of showing that no genuine factual dispute exists rests on the party seeking summary judgment. See Adickes v. S. H. Kress & Co., 398 U.S. 144, 157 (1970); Cronin v. Aetna Life Ins. Co.,

⁴ According to Plaintiff, Defendant allegedly informed him that Plaintiff was under arrest and was being "detained" at Hartford Hospital. Plaintiff has identified no other record evidence that would support these contentions.

46 F.3d 196, 202 (2d Cir. 1995). After discovery, if the party against whom summary judgment is sought "has failed to make a sufficient showing on an essential element of [its] case with respect to which [it] has the burden of proof," then summary judgment is appropriate. Celotex Corp. v. Catrett, 477 U.S. 317, 323 (1986).

The substantive law governing a particular case identifies those facts that are material with respect to a motion for summary judgment. See Anderson, 477 U.S. at 258. A court may grant summary judgment "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with affidavits, if any, show that there is no genuine issue as to any material fact" Miner v. Glen Falls, 999 F.2d 655, 661 (2d Cir. 1993) (citation omitted); see also United States v. Diebold, Inc., 369 U.S. 654, 655 (1962). "A dispute regarding a material fact is genuine 'if the evidence is such that a reasonable jury could return a verdict for the nonmoving party.'" Aldrich v. Randolph Cent. Sch. Dist., 963 F.2d 520, 523 (2d Cir. 1992) (quoting Anderson, 477 U.S. at 248), cert. denied, 506 U.S. 965 (1992).

In considering a Rule 56 motion, "the court's responsibility is not to resolve disputed issues of fact but to assess whether there are any factual issues to be tried,

while resolving ambiguities and drawing reasonable inferences against the moving party." Knight v. U.S. Fire Ins. Co., 804 F.2d 9, 11 (2d Cir. 1986) (citing Anderson, 477 U.S. at 248; Eastway Constr. Corp. v. City of New York, 762 F.2d 243, 249 (2d Cir. 1985)); see also Ramseur v. Chase Manhattan Bank, 865 F.2d 460, 465 (2d Cir. 1989); Donahue v. Windsor Locks Board of Fire Comm'rs, 834 F.2d 54, 57 (2d Cir. 1987). Thus, "[o]nly when reasonable minds could not differ as to the import of the evidence is summary judgment proper." Bryant v. Maffucci, 923 F.2d 979, 982 (2d Cir. 1991), cert. denied, 502 U.S. 849 (1991); see also Suburban Propane v. Proctor Gas, Inc., 953 F.2d 780, 788 (2d Cir. 1992).

DISCUSSION

Plaintiff's claims for false arrest and unreasonable seizure cannot survive summary judgment because the record evidence shows that he was neither arrested nor illegally seized in any respect. Much to the contrary, the record demonstrates that Plaintiff went to the hospital voluntarily and that no constitutional violation occurred. Moreover, even if the court indulges the unwarranted assumption that Plaintiff was hospitalized against his will, the doctrine of qualified immunity would shield Defendant from liability.

I. The Record Evidence Indicates That Plaintiff Was Neither Arrested Nor Illegally Seized

Plaintiff's claims for false arrest and unreasonable seizure fail because the record evidence demonstrates that Plaintiff went to the hospital voluntarily and that he was experiencing significant psychological problems around the time of the June 25, 2001, hearing. Plaintiff does not dispute that he manifested emotional problems in the following ways: that ten days before the Commission hearing, he had left two profane messages on Commissioner Fleming's voice mail indicating that he wanted to die; that he appeared at the hearing unshaven, unshowered, and unkempt with bloodshot eyes; and that he openly cried at the hearing. While there, he also said (1) that he had suffered from numerous nervous breakdowns; (2) that "everyone was out to get him"; (3) that he had been recently arrested at a bank on suspicion of carrying a gun; (4) that he had been previously hospitalized for psychiatric problems; (5) that he had an alcohol problem; and (6) that he loved birds. Based on this record, the court finds that Plaintiff appears to have suffered from a significant psychological problem.

In turn, the summary judgment record undercuts Plaintiff's claim that he was arrested and forced to go to the hospital against his will. There is no evidence that

Plaintiff resisted the ambulance or hospital personnel, nor does he dispute that he was never handcuffed. Plaintiff does not dispute that Defendant drove separately in his squad car to the hospital, presented an emergency examination request form to the Emergency Room staff, and then left the hospital before Plaintiff was actually seen by a treating physician. There is simply no evidence that Plaintiff was forced to go to the hospital against his will. Given the dearth of evidence corroborating the alleged arrest or seizure of Plaintiff, the court finds that Defendant is entitled to summary judgment as a matter of law.

II. Even Assuming That Plaintiff Was Involuntarily Hospitalized, Defendant Would Be Entitled to Qualified Immunity

A. Qualified Immunity

Qualified immunity shields government actors from liability as long as their conduct does not "violate clearly established statutory or constitutional rights of which a reasonable person would have known." Lennon v. Miller, 66 F.3d 416, 420 (2d Cir. 1995). When "the plaintiff's federal rights and the scope of the official's permissible conduct are clearly established, the qualified immunity defense protects a government actor if it was 'objectively reasonable' for him to

believe that his actions were lawful at the time of the challenged act." Id. (emphasis added). A right is "clearly established" if its contours are sufficiently clear so that a reasonable official would understand his conduct violated that right. See McCullough v. Wyandanch Union Free Sch. Dist., 187 F.3d 272, 278 (2d Cir. 1999).

B. Alleged Due Process Violation

Plaintiff claims that Defendant involuntarily committed him in violation of his right to due process under the Fourteenth Amendment. The Supreme Court has held that a state cannot constitutionally confine a "nondangerous individual who is capable of surviving in freedom by himself or with the help of willing and responsible family members." O'Connor v. Donaldson, 422 U.S. 563, 576, 95 S.Ct. 2486, 2494 (1975). Similarly, Conn. Gen. Stat. § 17a-503(a) requires a finding of reasonable cause and dangerousness before a law enforcement officer may hospitalize an individual against his will:

Any police officer who has reasonable cause to believe that a person has psychiatric disabilities and is dangerous to himself . . . or others or gravely disabled, and in need of immediate care and treatment, may take such person into custody and take or cause such person to be taken to a general hospital for emergency examination under this section.

Conn. Gen. Stat. § 17a-503(a) (emphasis added). Thus, the availability of qualified immunity here hinges on whether it

was objectively reasonable for the Defendant to believe at the time of Plaintiff's hospitalization that Plaintiff suffered from a psychiatric disability and was a danger to himself or society.

As discussed supra in Part I, the court finds that at the time of the Commission hearing on June 25, 2001, Plaintiff had exhibited bizarre conduct that a reasonable law enforcement officer would have duly noted. Moreover, such an officer would have reasonably concluded from Plaintiff's appearance, conduct, and bizarre statements before and during the hearing that Plaintiff had emotional problems, which if left unchecked, could pose a danger to himself and the general public. Thus, Defendant would have had reasonable cause to commit Plaintiff to a hospital against his will. Accordingly, the court finds that even assuming an arrest or seizure actually occurred in this case, Defendant would still be entitled to qualified immunity on the due process claim.

C. Unreasonable Seizure

Finally, Plaintiff argues that his alleged commitment to Hartford Hospital by Defendant violated the Fourth Amendment's prohibition against "unreasonable seizures" because Defendant lacked probable cause to believe Plaintiff was dangerous. The standard for qualified immunity in the Fourth Amendment

context is objective reasonableness. See Graham v. Connor, 490 U.S. 386, 397, 109 S.Ct. 1865, 1872 (1988). The Fourth Amendment requires that an involuntary hospitalization "may be made only upon probable cause, that is, only if there are reasonable grounds for believing that the person seized is subject to seizure under the governing legal standard." See, e.g., Villanova v. Abrams, 972 F.2d 792, 795 (7th Cir. 1992). In this context, the governing legal standard for an unreasonable seizure is Conn. Gen. Stat. § 17a-503(a). See supra Part II.B.

For the same reasons discussed supra in Part II.B., the court finds that even assuming that a seizure did happen here, any such seizure would still be reasonable under Conn. Gen. Stat. § 17a-503(a). The totality of Plaintiff's appearance, demeanor, and spoken statements prior to and during the Commission hearing would have given a reasonable law enforcement officer probable cause to find that Plaintiff posed a safety risk to himself as well as the general public. As discussed supra, Plaintiff had, among other things, left suicidal messages on Commissioner Fleming's voice mail and was at risk of losing his real estate license. Plaintiff also had made troubling statements referring to, among other things, his recent arrest at a bank for possibly carrying a gun and his nervous breakdowns. An officer viewing Plaintiff's

behavior as a whole would have a reasonable basis for compelling him to undergo a psychological evaluation. As a result, the court finds that even assuming an illegal seizure occurred here, Defendant would still be entitled to qualified immunity.

CONCLUSION

For the reasons discussed above, Defendant's Motion for Summary Judgment [Doc. #8] is GRANTED. The Clerk is instructed to enter judgment in favor of Defendant and close the file.

SO ORDERED this ____ day of September, 2003, at Bridgeport, Connecticut.

Alan H. Nevas
United States District Judge