

STATE OF MICHIGAN  
COURT OF APPEALS

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TRAVIS TURNER, III,

Plaintiff-Appellant,

v

CITY OF GRAND RAPIDS,

Defendant-Appellee.

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UNPUBLISHED

October 31, 2006

No. 268899

Kent Circuit Court

LC No. 05-008600-CZ

Before: Whitbeck, C.J., and Saad and Schuette, JJ.

PER CURIAM.

Plaintiff Travis Turner, III, appeals from the trial court's order that granted summary disposition to defendant, and we affirm.<sup>1</sup>

Plaintiff's § 1983<sup>2</sup> claim stems from his arrest following a domestic altercation. The violent incident involved plaintiff and several of his relatives. As a result of the various descriptions of the fight and observation of injuries to the participants, defendant's police officers arrested all of those involved, with the exception of plaintiff's mother, and charged them with domestic assault and battery. MCL 750.81.

Plaintiff and his wife subsequently sued defendant for an alleged "tort civil rights violation" in connection with their arrests and sought compensatory damages.<sup>3</sup> Plaintiffs moved for summary disposition pursuant to MCR 2.116(C)(8) and (10). After the trial court found that plaintiffs had failed to state a claim upon which relief could be granted, the trial court denied plaintiffs' motion for summary disposition and granted defendant's request for summary disposition under MCR 2.116(I)(2).

"A trial court's grant of summary disposition is reviewed de novo." *Feyz v Mercy Memorial Hosp*, 475 Mich 663, 672; 719 NW2d 1 (2006). "A motion for summary disposition

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<sup>1</sup> This appeal is being decided without oral argument pursuant to MCR 7.214(E).

<sup>2</sup> 42 USC 1983

<sup>3</sup> Plaintiff's wife is not a party to this appeal.

brought pursuant to MCR 2.116(C)(8) tests the legal sufficiency of the complaint on the allegations of the pleadings alone.” *Id.*

Plaintiff alleges that the police failed to properly investigate the incident and improperly arrested him without probable cause in violation of 42 USC 1983.<sup>4</sup> He further argues that the City of Grand Rapids is liable for the allegedly unlawful arrest by its police officers. He also contends that the police officers knew about the ongoing dispute between the parties,<sup>5</sup> and should have known that his family bore a “grudge” against him and lied about the incident.

Plaintiff’s lawsuit is against the city only, not the officers who engaged in allegedly wrongful conduct. Municipal liability under § 1983 cannot be based on a theory of respondeat superior. *Monell v Dep’t of Social Services of the City of New York*, 436 US 658, 690-691; 98 S Ct 2018; 56 L Ed 611 (1978). Instead, the deprivation must be directly attributable to the municipality’s policy or custom:

[I]t is not enough for a § 1983 plaintiff merely to identify conduct properly attributable to the municipality. The plaintiff must also demonstrate that, through its *deliberate* conduct, the municipality was the “moving force” behind the injury alleged. That is, a plaintiff must show that the municipal action was taken with the requisite degree of culpability and must demonstrate a direct causal link between the municipal action and the deprivation of federal rights. [*Bryan Co Bd of Co Comm’rs v Brown*, 520 US 397, 404; 117 S Ct 1382; 137 L Ed 2d 626 (1997). (emphasis in original).]

Here, plaintiff asserts that the officers “execut[ed] the city of Grand Rapids statutes, ordinances, regulations and customs” when they allegedly improperly arrested him. However, plaintiff fails to mention, much less analyze, any specific city policy or custom or discuss how any policy or custom applies here. Plaintiff has also failed to allege or show that the city knew about or suspected alleged unconstitutional conduct by its police officers. Were we to agree with plaintiff that the police lacked probable cause to arrest him, which we reject, plaintiff has nonetheless failed to allege the existence of a policy that was the “moving force” for any constitutional deprivation. Therefore, plaintiff has failed to state a claim upon which relief can be granted against the City of Grand Rapids. The trial court properly granted summary disposition to defendant on this frivolous claim.

Affirmed.

/s/ William C. Whitbeck  
/s/ Henry William Saad  
/s/ Bill Schuette

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<sup>4</sup> Plaintiff does not complain about the manner of the arrest or his subsequent treatment.

<sup>5</sup> The incident report states that the police had responded to 10 complaints at the address within the prior two months.