

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KEITH M. MORGAN,

Plaintiff,

-vs-

Case No. 06-15223
Judge Avern Cohn

DEARBORN HEIGHTS POLICE OFFICER
C. PELLERITO, OFFICER P. THOMAS,
OFFICER JANE DOE, OFFICER RICHARD
ROE, CITY OF DEARBORN HIEGHTS,
AARON HICKS, and STEPHANIE HICKS,
jointly and severally,

Defendants.

**MEMORANDUM AND ORDER DENYING
DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

This is a civil rights case brought under 42 U.S.C. § 1983. The case centers around a fight that occurred in the parking lot of a restaurant in Dearborn Heights, Michigan. The combatants were Defendant Aaron Hicks and Tyran McCall ("McCall"). Aaron Hicks and his wife, Defendant Stephanie Hicks, say that Plaintiff Keith Morgan ("Morgan") also participated in the fight, specifically by stomping on Aaron Hicks's ankle while McCall held him down. Morgan denies that he engaged in any sort of violence. Some hours after the incident, however, Morgan was arrested for aggravated assault.

Morgan now brings a claim under § 1983 for violation of his rights under the Fourth and Fourteenth Amendments against Dearborn Heights Police Officers Chris Pellerito ("Pellerito") and Patrick Thomas ("Thomas"), two unidentified Dearborn Heights

Police officers, and the City of Dearborn Heights. Morgan says that the officers arrested him without probable cause. Morgan also makes state law claims for false arrest, false imprisonment, and malicious prosecution against these same defendants. In addition, Morgan brings claims against Aaron and Stephanie Hicks for malicious prosecution, slander, intentional infliction of emotional distress, and negligent infliction of emotional distress, and against Aaron Hicks for assault and battery.

Before the Court is a motion for summary judgment brought by the defendant police officers and the City of Dearborn Heights. The court held oral argument on the motion on April 16, 2008, and again, following supplementation of the evidentiary record, on May 21, 2008. For the reasons discussed on the record at the May 21 hearing, there are genuine issues of material fact as to what occurred during the fight outside the restaurant and what information became known to police during their investigation of the fight. Because of these factual issues, the question of whether the Dearborn Heights police had probable cause to arrest Morgan may not be resolved at the summary judgment stage.

Defendants' motion is therefore DENIED.

SO ORDERED.

Dated: June 2, 2008

s/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

I hereby certify that a copy of the foregoing document was mailed to the attorneys of record on this date, June 2, 2008, by electronic and/or ordinary mail.

s/Julie Owens
Case Manager, (313) 234-5160