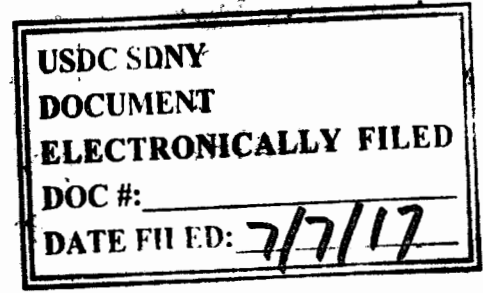


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



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MARTIN WALSH,

Plaintiff,

v.

LIEUTENANT JASON LUNSFORD, NEW
YORK CITY POLICE OFFICER MICHAEL
CLARK, and NEW YORK CITY POLICE
SERGEANT CATHERINE ROACH

Defendants.

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OPINION AND ORDER
DENYING DEFENDANTS'
POST-TRIAL MOTION

14 Civ. 7108 (AKH)

ALVIN K. HELLERSTEIN, U.S.D.J.:

Defendants Michael Clark and Catherine Roach move to vacate the jury's verdict and ask the Court to grant, alternatively, judgment as a matter of law or a new trial. Fed. R. Civ. P. 50(b); 59(a). They contend that the evidence does not support the verdict of \$225,000 compensatory damages and \$100,000 punitive damages, for falsely arresting plaintiff Martin Walsh and causing him to be maliciously prosecuted. They contend also that the verdict is inconsistent with the jury's finding that defendant Jason Lunsford is not liable to plaintiff.

The motion is denied. The evidence amply supports the verdict against Roach and Clark; the jury was properly instructed; and there were no evidentiary errors in the court's rulings.

THE EVIDENCE

Defendants Lunsford, Clark and Roach were all working as law enforcement officers for the New York Police Department on the night of the incident. Plaintiff Martin Walsh

is a senior court clerk in New York State Criminal Court and a peace officer, authorized to make arrests for crimes committed within his presence, whether on or off duty. Walsh also worked during off-duty hours as an armed security guard for Ambassador Protection Services. Tr. 57-59.

On New Year's Eve, December 31, 2013, Walsh was working as a security guard at the Hilton Hotel located at Sixth Avenue and 54th Street in Manhattan. He was posted in front of an "exit only" door to prevent pedestrians from entering the Hilton through that door. Tr. 61-62. The purpose of establishing this exit only door on New Year's Eve was to prevent non-guest pedestrians from cutting through the hotel in attempt to get closer to Times Square. Tr. 41, 60.

At approximately 6:15 p.m., David Vadala approached Walsh at a "jogging" pace and attempted to push his away past Walsh and into the hotel, exclaiming, "I gotta get in here." Tr. 62. Vadala grabbed Walsh by the lapels of his coat and shoved him into the exit door, trying to get past Walsh. Tr. 62-63. Walsh then punched Vadala in the face to free himself and sought to arrest him. Tr. 65. The two tumbled to the ground, and other security guards and nearby police officers came to the scene. Vadala "resisted violently," and it took the effort of several officers to subdue Vadala and place him in handcuffs. Tr. 66-67. During the struggle, Vadala yelled, "I'm retired, I'm retired," which Walsh interpreted to mean that Vadala was a retired police officer. Tr. 67.

After Vadala was restrained, defendant Lieutenant Jason Lunsford, an officer on the scene, spoke with Walsh. Lunsford was from the 75th precinct in Brooklyn, but was assigned to midtown Manhattan to provide extra security on New Year's Eve. Walsh told Lunsford that he had arrested Vadala in his capacity as a peace officer. Tr. 68. Lunsford responded that the police would handle the arrest, and instructed Walsh, as the complainant, to

go to the nearby 18th precinct, and file a complaint against Vadala. Tr. 69. Lunsford took Walsh's ID as a precaution, and Walsh voluntarily walked to the 18th precinct, unescorted. Tr. 71. Vadala, by contrast, was handcuffed, transported to the 18th precinct in a police car, and placed in a holding cell or interrogation room. Tr. 68, 72, 240.

Walsh testified that when he arrived at the 18th precinct to file a complaint against Vadala, he was told to wait in a room. After some time, defendant Officer Michael Clark entered the room, leaned over the edge of a desk, pointed at Walsh, and stated, "I don't know if you know how things work in the police department, but you gotta shit-can this job." Tr. 74. Walsh responded, "I can't do that," and Clark "stormed" out of the room. Tr. 75.

A few minutes later, Sergeant Catherine Roach, the desk sergeant in charge of the 18th precinct that night and Officer Clark's superior, entered the room and asked Walsh what had happened. Walsh told her and said that he had come to the precinct to file a complaint against Vadala. Roach responded, "OK, we'll see about that," and walked out of the room. Tr. 76. A few minutes later, Roach returned with Lunsford, who had arrived at the precinct. Walsh again explained what had happened, and asked if he needed a lawyer. Roach responded, "Well, if that's the route you are going to go, we're going to have to go farther with this." Tr. 77. Roach and Lunsford then left the room. After more time had passed, Roach returned and asked Walsh, "Well, are you going to drop the charges?" Tr. 80. After Walsh again stated he would not do that, Roach responded, "All right. Turn around. Put your hands behind your back. You're under arrest," and handcuffed Walsh. *Id.* Roach instructed Officer Jhonny Milfort, a novice officer who was assigned to the 18th precinct on temporary duty that night, to swear out the complaint against Walsh charging him with assault. Tr. 212-213. Walsh spent the night in jail, and was arraigned the following day. Tr. 111-12.

Throughout that evening, Roach and Clark interacted with Vadala as well. Tr. 232, 292. When Vadala was first brought into the precinct, Clark recognized Vadala because they served together at the 18th precinct in the early 1990s. Tr. 285. Clark and Vadala spoke three times that evening, and Roach estimated that she spoke with Vadala for about an hour. Tr. 249, 336. They asked Vadala if he wanted to press charges against Walsh, to enable them to make a joint offer to both under which they would drop their complaints against each other and accept a summons for a violation in lieu of arrest and detention. Tr. 236-37, 277-78, 328-29, 333-34. Walsh made it clear he was not interested in such a deal, and Roach and Clark arrested both Walsh and Vadala for assaulting each other. Clark told Vadala, “I’m sorry, it’s going through.” Tr. 336.

Lunsford arrived at the 18th precinct after Walsh had arrived. Lunsford testified that he briefed Roach about the incident between Walsh and Vadala, but did not recall speaking with Clark. Tr. 162-63. Lunsford again spoke with Walsh and then with Vadala, but did not recall any details other than Vadala’s complaint that Walsh had assaulted him. Tr. 164, 167. Lunsford testified that he offered a criminal summons to both Walsh and Vadala. Tr. 173. This testimony was in tension with the testimony of Clark, who stated that he and Roach were the ones who offered the deal to Walsh and Vadala, not Lunsford. Tr. 334. Lunsford left the precinct after Walsh rejected the offer and was placed under arrest.

DISCUSSION

I. Roach and Clark’s Motion for Judgment as a Matter of Law is Denied

a. Legal Standard

The burden on a party seeking judgment as a matter of law “is particularly heavy after the jury has deliberated in the case and actually returned its verdict.” *Cross v. N.Y. City Transit Auth.*, 417 F.3d 241, 248 (2d Cir. 2005). “In deciding such a motion, the court must give

deference to all credibility determinations and reasonable inferences of the jury, and it may not itself weigh the credibility of witnesses or consider the weight of the evidence.” *Galdieri-Ambrosini v. Nat’l Realty & Dev. Corp.*, 136 F.3d 276, 289 (2d Cir. 1998) (citation omitted). Consequently, a Rule 50 motion may not be granted unless “(1) there is such a complete absence of evidence supporting the verdict that the jury’s findings could only have been the result of sheer surmise and conjecture, or (2) there is such an overwhelming amount of evidence in favor of the movant that reasonable and fair minded [persons] could not arrive at a verdict against [it].” *Williams v Cty. of Westchester*, 171 F.3d 98, 101 (2d Cir. 1999) (citation omitted).

b. False Arrest

To prevail on a claim for false arrest under New York law, the plaintiff must show “(1) the defendant intended to confine [the plaintiff], (2) the plaintiff was conscious of the confinement, (3) the plaintiff did not consent to the confinement and (4) the confinement was not otherwise privileged.” *Singer v. Fulton Cty. Sheriff*, 63 F.3d 110, 118 (2d Cir. 1995) (quoting *Broughton v. State*, 37 N.Y.2d 451, 456 (N.Y. 1975)).¹ “The existence of probable cause to arrest constitutes justification and is a complete defense to an action for false arrest, whether that action is brought under state law or under § 1983.” *Weyant v. Okst*, 101 F.3d 845, 852 (2d Cir. 1996) (internal quotation marks and citation omitted). “[P]robable cause to arrest exists when the officers have knowledge or reasonably trustworthy information of facts and circumstances that are sufficient to warrant a person of reasonable caution in the belief that the person to be arrested has committed or is committing a crime.” *Jenkins v. City of N.Y.*, 478 F.3d 76, 84–85 (2d Cir. 2007).

¹ The elements of a claim of false arrest pursuant to 42 U.S.C. § 1983 are “substantially the same as the elements of a false arrest claim under New York law.” *Hygh v Jacobs*, 961 F.2d 359, 366 (2d Cir. 1992) (internal quotation marks omitted).

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