UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1016

September Term, 2013

JANICE D. WILLIAMS

v.

FRED JACKSON, *et al*.

Krauser, C.J.,
Nazarian,
Eyler, James, R.
(Retired, Specially Assigned),

JJ.

PER CURIAM

Filed: June 20, 2016

Janice D. Williams, appellant, filed this appeal after the Circuit Court for Baltimore City granted appellees' motions to dismiss her lawsuit for failure to state a claim upon which relief could be granted. Appellant essentially argues that (1) the claim that she submitted to the Baltimore City Law Department and Maryland State Treasurer's Office prior to filing her lawsuit was timely and (2) the trial court erred in granting the motion to dismiss.

Because the trial court did not dismiss appellant's claims for failing to follow the requirements of the Maryland Tort Claims Act or the Local Government Tort Claims Act, the issue of whether her pre-suit claim was timely filed is not properly before this court. *See* Md. Rule 8–131(a) (stating that an appellate court may not decide an issue not raised in or decided by trial court).

The trial court also did not err in granting appellees' motions to dismiss because even presuming the truth of the facts alleged in appellant's complaint, and viewing all reasonable inferences therefrom in a light most favorable to her, *see Pittway Corp. v. Collins*, 409 Md. 218, 234 (2009), the complaint fails to disclose a legally sufficient cause of action against appellees. Appellant's complaint does not identify any statute or regulation that she contends is an ex post facto law. *See Watkins v. Secretary, Dept. of Public Safety and Correctional Servs.*, 377 Md. 34, 48 (2003) ("The plain language of the *ex post facto* clauses make clear that the prohibition applies only to 'laws.'"). Further, entrapment is a defense to a criminal charge and not a cognizable civil cause of action.

Appellant's malicious prosecution claim is legally insufficient because nothing indicates any appellee "instituted, instigated, or inspired" a criminal proceeding against

her. *See Brewer v. Mele,* 267 Md. 437, 443 (1972) (concluding that the plaintiff failed to show that the defendant officer "instituted, instigated or inspired in any fashion a criminal proceeding" because, although he executed the warrant, he "was not [ ] responsible for the investigation . . . did not confer with the state's attorney [and] . . . did not apply for the arrest warrants"), *abrogated on other grounds* as recognized by *Shoemaker v. Smith,* 353 Md. 143, 162 (1999).

Moreover, as appellant's complaint (1) acknowledges she was arrested on a warrant containing her name; (2) alleges one of the arresting officers ran her social security number and confirmed she was the person listed in the warrant; and (3) does not set forth any facts, other than her own protests, that would indicate any of the appellees should have reasonably believed they were arresting the wrong person, it does not set forth a valid cause of action for false imprisonment, false arrest, or a violation of 42 U.S.C § 1983. *See State v. Dett*, 391 Md. 81, 96 (2006) ("[W]here the warrant sufficiently names or identifies the person to be arrested and the arresting officer, despite some evidence to the contrary, reasonably believes that the person arrested, bearing that name, is the person named in the warrant, the officer is not liable for false imprisonment, even if he or she, in fact, arrests the wrong person."); *see also Baker v. McCollan,* 443 U.S. 137, 142-46 (1979) (finding that the complaint filed by a plaintiff who was arrested pursuant to valid warrant and detained in jail for three days despite his protests of mistaken identity failed to allege a cause of action against a county sheriff under § 1983 because the plaintiff's detention was pursuant to a warrant conforming to constitutional requirements).

Because appellant's complaint does not sufficiently allege an independent civil cause of action against any appellee, her claims for conspiracy and supervisory liability were also properly dismissed. *See Slakan v. Porter,* 737 F.2d 368 (4th Cir.1984) (noting that pursuant to 42 U.S.C. § 1983, "supervisory officials may be held liable in certain circumstances *for the constitutional injuries inflicted by their subordinates*" (emphasis added)); *Manikhi v. Mass Transit Admin.*, 360 Md. 333, 360 n.6 (2000) (stating conspiracy "is not a separate tort capable of independently sustaining an award of damages in the absence of other tortious injury to the plaintiff").

JUDGMENT OF THE CIRCUIT COURT FOR BALITIMORE CITY AFFIRMED. COSTS TO BE PAID BY APPELLANT.