

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1197

September Term, 2014

RYZELE GEORGE, et al.

v.

MICHAEL A. JONES, SR., et al.

Meredith,
Kehoe,
Moylan, Charles E., Jr.
(Retired, Specially Assigned),

JJ.

Opinion by Moylan, J.

Filed: September 16, 2015

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

On May 15, 2013, the appellants, Ryzele George and William E. Salliey, Jr., filed a complaint in the Circuit Court for Baltimore City, charging the appellees, Officer Michael A. Jones, Sr., and Detective Christopher Icenroad, with 1) illegal arrest, 2) false imprisonment, 3) malicious prosecution, and 4) violation of their constitutional rights pursuant to Article 9, 24 and 26 of the Maryland Declaration of Rights. On April 2, 2014, the appellees filed a Motion for Summary Judgment on all counts. On June 25, 2014 Judge Pamela J. White conducted a hearing on the motion at which both sides presented oral arguments. At the conclusion of the hearing Judge White granted summary judgment in favor of the appellees. This appeal is from that judgment.

All of the charges stem from, and are dependant upon, the allegedly illegal arrest (without probable cause) that Officer Jones made of the appellants on the night of May 16, 2010 in front of a nightclub known as The China Room at 44 South Street in Baltimore City. Officer Jones was a member of the Gang Unit of the Northeastern District, who was working that night along with two other officers. The only involvement that Detective Icenroad had with the case is that he, at the Property Room of the Northeastern District, subsequently processed two handguns that Officer Jones had earlier seized from the appellants.

The entire summary judgment issue hinges upon whether Officer Jones did or did not have probable cause to arrest the appellants on May 16, 2010. We agree with Judge White that he did.

It was at approximately 1:00 a.m. when Officer Jones approached the appellants, who were standing, along with other persons, in front of The China Room. He noticed that both

appellants were wearing mace, handcuffs, duty belts, and bullet-proof vests. They were also carrying handguns. He asked them whether they were police officers. They responded that they were working as private security guards for The China Room. He then asked to see their security officer cards and their handgun permits. They produced permits containing a restriction. They were authorized to carry a handgun only between their residences and any licensed "Security Guard Agency job assignment or property" and only "while actively engaged as a Maryland Certified Armed Security Guard for same." Officer Jones then asked the appellant George if he had a business card. George replied in the negative.

In an effort to determine if the two men were officially on duty as contracted security guards that night, Officer Jones approached An Pan Lee, the owner of The China Room, to see if the appellants were employed by the nightclub as security guards and were therefore acting within the permitted scope of their handgun permits. Mr. Lee informed Officer Jones that neither of the appellants had a contract with him or his business to provide security for The China Room. (Mr. Lee subsequently submitted a signed affidavit attesting to that information). Officer Jones then arrested the appellants for handgun violations in contravention of Maryland Code, Criminal Law Article, §4-203.

The appellants are now alleging that sometimes The China Room will lease its premises for an evening to a promotion company that may bring in its own entertainment and security. They now allege that even if Mr. Lee and The China Room did not hire the appellants as security guards, a private promoter did.

Judge White, in granting summary judgment, pointed out that on questions of probable cause, an officer is not under an open-ended obligation to investigate all possible exculpatory explanations but is empowered to act on the information he has before him. When Mr. Lee disclaimed any hiring of the security guards, the guards were presumably guilty of carrying weapons beyond the scope of the restricted permits. Judge White concluded:

"I don't see that the plaintiff has set forth, has identified any evidence to suggest that the defendants in this case acted without probable cause and with malice. The uncontroverted evidence in support of the motion for summary judgment shows that Sergeant Jones approached the [appellants], who were openly carrying firearms. He asked for the certifications, their Ids. When the plaintiffs failed to show documentation from their employer coupled with the club owner's statements, Mr. Li's (sic) statements, it becomes clear that there was probable cause to support the arrest for unlawfully wearing a handgun. And there's simply nothing to suggest that the defendants acted maliciously or even unreasonably in the circumstances. As I said, it's obvious to me that there was a miscommunication but that is not enough to identify malice or any lack of probable cause in the circumstances. So I am compelled to grant the motion for summary judgment for the reasons stated."

(Emphasis supplied).

Her conclusion was completely in line with our accepted definition of probable cause. As the Supreme Court well articulated it in Maryland v. Pringle, 540 U.S. 366, 371, 124 S.Ct. 795, 157 L.Ed. 2d 769 (2003):

"The probable-cause standard is incapable of precise definition or quantification into percentages because it deals with probabilities and depends on the totality of the circumstances. We have stated, however, that the substance of all definitions of probable cause is a reasonable ground for belief

of guilt, and that the belief of guilt must be particularized with respect to the person to be searched or seized.

...

"To determine whether an officer had probable cause to arrest an individual, we examine the events leading up to the arrest, and then decide whether these historical facts, viewed from the standpoint of an objectively reasonable police officer, amount to probable cause."

(Emphasis supplied; Internal citations and punctuation omitted).

**JUDGMENT AFFIRMED; COSTS
TO BE PAID BY APPELLANTS.**