NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 15-3848

J.B., A Minor, by Thomas Benjamin and Janet Benjamin,
Parents and Natural Guardians,
Appellants

v.

JAMES B. FASSNACHT, Pennsylvania State Police Officer, in his individual capacity; COUNTY OF LANCASTER; DAVID MUELLER, individually and in his official capacity as Probation Officer at the Lancaster County Office of Juvenile Probation; CAROLE TROSTLE, individually and in her official capacity as Probation Officer at the Lancaster County Office of Juvenile Probation; DREW FREDERICKS, individually and in his official capacity as Director of the Lancaster County Youth Intervention Center; JOHN DOE; JANE DOE, individually and in their official capacity as Security Officers at the Lancaster County Youth Intervention Center; BRIAN BRAY, Pennsylvania State Police Corporal, in his individual capacity; ROBERT KLING, individually and in his official capacity as Probation Officer at the Lancaster County Office of Juvenile Probation; DAREN DUBEY, individually and in his official capacity as Security Officer at the Lancaster County Youth Intervention Center; JOSEPH CHOI, individually and in his official capacity as Security Officer at the Lancaster County Youth Intervention Center

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APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA
(E.D. Pa. No. 5-12-cv-00585)
District Judge: Honorable Jeffrey L. Schmehl

Submitted pursuant to Third Circuit LAR 34.1(a)
July 11, 2016

Before: FUENTES, SHWARTZ, and RESTREPO, Circuit Judges.

(Filed: August 15, 2016)

OPINION*

SHWARTZ, Circuit Judge.

J.B., through his parents Thomas and Janet Benjamin, brought suit against various Pennsylvania state actors and entities ("Defendants")[1] pursuant to 42 U.S.C. § 1983, alleging, among other things, that Defendants violated his Fourth and Fifth Amendment rights by falsely arresting and imprisoning him without a court order, in violation of the Pennsylvania Juvenile Act. The District Court granted Defendants' motion for summary judgment and dismissed all of J.B.'s claims. For the reasons discussed herein, we will affirm.

I

J.B.'s § 1983 action arises out of his arrest and detention for an incident that occurred on July 1, 2009. On that day, twelve-year-old J.B.

> skillfully constructed a homemade flamethrower using PVC pipe, a lighter, and spray paint. He then activated this contraption in his backyard . . . attracting the attention of several neighborhood girls . . . who were playing nearby. . . . Later that day, the same girls went to J.B.'s front yard and began teasing him. This teasing resulted in hand-to-hand fighting between

* This disposition is not an opinion of the full Court and, pursuant to I.O.P. 5.7, does not constitute binding precedent.

[1] In this appeal, J.B. challenges the dismissal of his false arrest and false imprisonment claims against Pennsylvania State Police Trooper James Fassnacht, Police Corporal Brian Bray, Lancaster County Office of Juvenile Probation Director David Mueller, and Lancaster County Juvenile Probation Officers Carole Trostle and Robert Kling, as well as the dismissal of his Monell claims against Mueller, Lancaster County Youth Intervention Center Director Drew Fredericks, and Lancaster County.

> J.B. and at least two of the girls. During this conflict, J.B. brandished a homemade knife, approximately 5 inches long, which he held over one of the girl's heads, stating that he was stronger than her, "so [he could] kill [her] and over[]power [her]." The girls also alleged that J.B. directly threatened to kill them. . . . [Some of the girls reported the incident to their babysitter.] The father of two of the girls involved, called the state police that evening to report the incident.

J.B. ex rel. Benjamin v. Fassnacht, 801 F.3d 336, 337-38 (3d Cir. 2015). State Trooper Fassnacht visited the neighborhood that day and interviewed the girls and J.B. The next day, Fassnacht called J.B.'s father and informed him that J.B. would face charges of terroristic threats, a first degree misdemeanor, and harassment, a summary offense. Fassnacht told J.B.'s father he was leaving for vacation and that the charges would be filed "at a later date." App. 92.

Fassnacht prepared a Juvenile Allegation against J.B., charging him with the aforementioned crimes, and on July 24, 2009, Fassnacht filed the charges by delivering the Juvenile Allegation to Juvenile Probation Officer Carole Trostle. Trostle reviewed the allegation and later told Fassnacht that, "after speaking to her supervisor, based on the severity of the offense, they were going to authorize detention and issue a detainer," which is a type of court order used to authorize detention of a juvenile, and that they needed an affidavit of probable cause. App. 398-400. From this, Fassnacht understood "there was going to be something authorized through a judge that would lawfully allow [the police] to . . . arrest [J.B.]." App. 431. Fassnacht completed an affidavit of probable cause that same day and faxed the affidavit to the juvenile probation office.

Trostle then submitted a Juvenile Petition, which included the affidavit, to the Lancaster County Court of Common Pleas. Robert Kling, Trostle's supervisor and the

duty officer that day, approved J.B.'s detention pursuant to a court order. Trostle then notified Fassnacht that "he could go and apprehend [J.B.], because [Trostle] had filed the court order." App. 501. Fassnacht called J.B.'s father and told him there was a court order for J.B.'s detention, and J.B.'s father agreed to bring J.B. to the police barracks. When J.B. and his father arrived at the barracks, the officer on duty, Corporal Brian Bray, told J.B.'s father he had an order for J.B.'s arrest.

After completing the intake process, Bray transported J.B. to the Lancaster County Youth Intervention Center, where J.B. was strip-searched and detained from July 24, 2009 to July 27, 2009, at which time he appeared before a judge and was released to his parents. At an October 2009 hearing, J.B. entered into a consent decree, wherein he did not contest the charges and agreed to a six-month supervisory and probationary period that, inter alia, required him to write a letter of apology to his victims. The decree also provided that J.B. could move for expungement of his juvenile offense at the end of the six-month period. See 18 Pa. Cons. Stat. § 9123(a)(2). J.B. complied with the terms of the consent decree and subsequently moved for expungement. In October 2010, the Lancaster County Court of Common Pleas ordered expungement and the destruction of all records relating to the incident. Accordingly, the record for this appeal contains no copy of the court order authorizing J.B.'s detention.[2]

[2] The police complied with this order and destroyed all records pertaining to J.B. The Youth Intervention Center, however, did not receive a copy of the expungement order and thus kept J.B's detention records, although the retained records did not include a copy of the court order.

However, every state official involved testified that J.B. would not have been detained without a court order and/or that such an order was issued.[3] J.B.'s father also testified that officers told him J.B. was being detained pursuant to a court order.

J.B. filed suit, discovery ensued, and Defendants moved for summary judgment on all claims. Of relevance here, the District Court granted Defendants' motion for summary judgment on the false arrest and false imprisonment claims, holding that such claims were barred by the "favorable termination rule" set forth in Heck v. Humphrey, 512 U.S. 477 (1994). Under Heck, "a § 1983 action that impugns the validity of the plaintiff's underlying conviction cannot be maintained unless the conviction" was terminated in the plaintiff's favor, such as via reversal on direct appeal or vacatur on collateral attack. Gilles v. Davis, 427 F.3d 197, 208-09 (3d Cir. 2005). The District Court concluded that J.B.'s consent decree did not qualify as a "favorable termination"

[3] See, e.g., App. 489, 498-99, 501, 514 (Trostle testifying that she "told the police officer that they could apprehend the juvenile[;] [t]hat we had a court order," and believed that the arrest would only have occurred pursuant to court order, consistent with standard juvenile detention procedure); App. 538-44 (Kling stating he knew a court order existed because J.B.'s name was on the detainer list and "the person's name is not placed on there until the official court order is signed," although he could not recall whether he ever saw such an order); App. 575, 580-85, 592-95 (Mueller stating he believed that a detainer existed based on standard detention procedures dictating that "if the [juvenile] has already been interviewed and has been released, then most police departments will not go back and pick up the kid without a court order" and that there was a court order which was expunged and destroyed; otherwise, it would remain in the case file); App. 602 (Mueller's testifying that the arresting officer would not act without the court order); App. 378-79, 400-02, 431 (Fassnacht stating he could not recall seeing a court order but believed one existed based on communications from Trostle and the probation department authorizing J.B.'s detention); App. 462-65 (Bray's testifying that he thought he saw a document signed by a judge containing the charges and authorizing J.B.'s detention, which he needed to complete the fingerprint process, though Bray could not recall the document's exact contents nor confirm it was a detention order).

and thus Heck barred J.B.'s false arrest and false imprisonment claims.[4] See App. 12-14. J.B. appeals.

II[5]

A

We first address J.B.'s challenge to the dismissal of his § 1983 claims for false arrest and false imprisonment in violation of the Fourth Amendment. When a court analyzes a § 1983 claim based on false arrest, "[t]he proper inquiry . . . is . . . whether the arresting officers had probable cause to believe the person arrested had committed the offense."[6] Dowling v. City of Phila., 855 F.2d 136, 141 (3d Cir. 1988). Because the availability of a corresponding false imprisonment claim depends on whether the preceding arrest was based on probable cause, "an arrest based on probable cause

[4] Because we affirm on alternate grounds, we do not reach the Heck issue.

[5] The District Court had jurisdiction under 28 U.S.C. §§ 1331 and 1343. We have jurisdiction under 28 U.S.C. § 1291. We review the District Court's grant of summary judgment de novo. Alcoa, Inc. v. United States, 509 F.3d 173, 175 (3d Cir. 2007). In doing so, we apply the same standard as the District Court, viewing facts and making reasonable inferences in the non-movant's favor. Hugh v. Butler Cty. Family YMCA, 418 F.3d 265, 266-67 (3d Cir. 2005). Summary judgment is appropriate where "there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a). "An issue is genuine only if there is a sufficient evidentiary basis on which a reasonable jury could find for the non-mov[ant]." Kaucher v. Cty. of Bucks, 455 F.3d 418, 423 (3d Cir. 2006) (citing Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986)). In opposing summary judgment, the non-movant "must do more than simply show that there is some metaphysical doubt as to the material facts." Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 475 U.S. 574, 586 (1986). We may affirm on any ground supported by the record. Nicini v. Morra, 212 F.3d 798, 805 (3d Cir. 2000) (en banc).

[6] Probable cause is "defined in terms of facts and circumstances 'sufficient to warrant a prudent man in believing that the [suspect] had committed or was committing an offense.'" Gerstein v. Pugh, 420 U.S. 103, 111 (1975) (quoting Beck v. Ohio, 379 U.S. 89, 91 (1964)).

[cannot] become the source of a claim for false imprisonment." Groman v. Twp. of Manalapan, 47 F.3d 628, 636 (3d Cir. 1995). Where, however, "the police lack probable cause to make an arrest, the arrestee has a claim under § 1983 for false imprisonment based on a detention pursuant to that arrest." Id.

J.B. does not dispute that the police had probable cause to arrest him. Thus, his arrest and concomitant detention did not violate the Fourth Amendment. See Gerstein v. Pugh, 420 U.S. 103, 113 (1975). He therefore cannot maintain a § 1983 action predicated on a violation of his Fourth Amendment rights.[7]

J.B.'s argument that Defendants violated his Fourth Amendment rights by detaining him without a court order, in violation of the Pennsylvania Juvenile Act, 42 Pa. Cons. Stat. § 6301 et seq. also does not provide him with a basis for § 1983 relief. Section 1983 "solely supports causes of action based upon violations, [by state or local officials acting] under the color of state law, of federal statutory law or constitutional rights." Brown v. Grabowski, 922 F.2d 1097, 1113 (3d Cir. 1990) (emphasis in original). Section 1983 "does not provide a cause of action for violations of state statutes, and . . . a state statute cannot, in and of itself, create a constitutional right." Id.; see also Benn v. Univ. Health Sys., Inc., 371 F.3d 165, 173-74 (3d Cir. 2004) (holding that alleged

[7] To the extent J.B. seeks to cast these claims as due process violations, his argument is foreclosed by the "more-specific-provision rule." Under this rule, "if a constitutional claim is covered by a specific constitutional provision, such as the Fourth . . . Amendment, the claim must be analyzed under the standard appropriate to that specific provision, not under the rubric of substantive due process." Betts v. New Castle Youth Dev. Ctr., 621 F.3d 249, 260 (3d Cir. 2010). Because false arrest and false imprisonment claims are "grounded in the Fourth Amendment's guarantee against unreasonable seizures," Brown v. Grabowski, 922 F.2d 1097, 1113 (3d Cir. 1990), J.B. may only proceed under the Fourth Amendment.

violation of Pennsylvania's Mental Health Procedures Act did not give rise to procedural due process claim and thus could not be the basis for § 1983 claim); United States v. Jiles, 658 F.2d 194, 199-200 (3d Cir. 1981) (holding that disclosure of a juvenile's photograph without a court order did not violate due process merely because it may have violated Pennsylvania law, as "[n]ot all violations of state law rise to the level of constitutional error," and state law did not "directly confer[ ] a substantive right on the defendant"). Thus, to the extent the Act requires a court order, it did not "confer[ ] a substantive [federal] right" on J.B. Jiles, 658 F.2d at 200. As a result, even assuming state officials never obtained a court order, J.B's arrest did not violate the federal Constitution.[8]

For these reasons, the District Court appropriately granted summary judgment in Defendants' favor on J.B.'s false arrest and false imprisonment claims.

B

We next address the District Court's grant of summary judgment in favor of Defendants Mueller, Fredericks, and Lancaster County on J.B.'s Monell claims that they

[8] Even if the absence of such a court order could give rise to a federal constitutional claim, summary judgment was appropriately granted because no reasonable jury could conclude that no court order authorized J.B.'s detention. J.B. claims that the absence of a copy of the court order in the record demonstrates that none ever existed, but he provides no factual basis for this assertion. Matsushita Elec. Indus. Co., 475 U.S. at 586. Moreover, each state official involved in this case testified that J.B. would only have been detained pursuant to a court order, and they all testified that they believe such an order existed. Because J.B.'s records were destroyed following J.B.'s successful motion for expungement, no reasonable jury could draw a negative inference from the absence of the court order in the record given the reason why no copy of the record now exists and the testimony of all individuals involved that the order existed. Therefore, there is no genuine issue of material fact as to whether J.B. was arrested pursuant to a court order.

were "deliberately indifferent to the fact that children . . . could be detained based on the probation officer's discretion and without a court order." Appellant's Br. 46-47.

Municipal and supervisory liability under § 1983 must be based on the "execution of a government's policy or custom" that actually results in a constitutional violation. Monell v. Dep't of Soc. Servs. of City of N.Y., 436 U.S. 658, 694-95 (1978). If no officer committed a "violation in the first place, there can be no derivative municipal claim." Mulholland v. Gov't Cty. of Berks, Pa., 706 F.3d 227, 238 n.15 (3d Cir. 2013); see also City of L.A. v. Heller, 475 U.S. 796, 799 (1986) ("[I]f the [officer] inflicted no constitutional injury . . . , it is inconceivable that [the city] could be liable . . . .").

Because the record does not support concluding that any individual Defendants violated J.B.'s Fourth Amendment rights, there can "be no derivative municipal claim" based on their actions. Mulholland, 706 F.3d at 238 n.15. Thus, the Monell claims were correctly dismissed.

III

For the foregoing reasons, we will affirm the District Court's order granting summary judgment on all claims and dismissing J.B.'s lawsuit.