

Circuit Court for Talbot County
Case No.: C-20-CV-23-000089

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND*

No. 2132

September Term, 2023

DEON A. TURNER

v.

JOSEPH COALE, ET AL.

Nazarian,
Reed,
Harrell, Glenn T., Jr.
(Senior Judge, Specially Assigned)
JJ.

PER CURIAM

Filed: November 7, 2024

* This is a per curiam opinion. Consistent with Rule 1-104, the opinion is not precedent within the rule of stare decisis nor may it be cited as persuasive authority.

In February of 2023, Deon A. Turner, appellant, was convicted of several violations of Maryland’s Controlled Dangerous Substances Act and related firearm offenses and sentenced to fourteen years in prison. Several months later, Mr. Turner filed a *pro se* civil complaint against Joseph Coale, State’s Attorney for Talbot County, Deputy Logan LeCompte of the Talbot County Sheriff’s Office, and two unknown defendants, “unknown members of [the] Talbot County Drug Task Force” and “unknown members of [the] Maryland State Police Special Operations Group[,]” appellees, asserting that the search warrant and resulting search of his home and vehicle, leading to the charges underlying his convictions, violated his rights under Article 26 of the Maryland Constitution’s Declaration of Rights. His complaint sought the award of damages and the return of personal property, including a vehicle, allegedly seized during the search.

Appellees each filed motions to dismiss asserting, among other things, that as state personnel, they were immune from liability under Md. Code Ann., State Government (“SG”) § 12-105 and Md. Code Ann., Courts and Judicial Proceedings (“CJP”) § 5-522(b). Attached to Mr. Coale’s motion was an affidavit executed by Sergeant Matthew Flamma of the Maryland State Police, disputing that Mr. Turner’s vehicle had been seized.¹ Mr. Turner opposed appellees’ motions but did not challenge the affidavit, the contents therein,

¹ Although not determinative to the outcome on appeal, we note that the motion submitted by Mr. Coale was titled a motion to dismiss or in the alternative, motion for summary judgment. Although it is unclear whether the court relied upon the affidavit, because the affidavit was not excluded by the court, the motion was converted into one for summary judgment, which we discuss, *infra*. See Md. Rule 2-322(c); *Tomran, Inc. v. Passano*, 391 Md. 1, 10 n.8 (2006).

or dispute that appellees were immune from his claims. The court granted appellees' motions, and Mr. Turner noted the instant appeal.

Mr. Turner's claims on appeal primarily challenge the application for the search warrant leading to his convictions and the affidavit of Sergeant Flamma. Specifically, he asserts that "the [warrant] application and affidavit for search and seizure warrant [sic] expressed faulty information[.]" although he does not identify which information he contends was "faulty[.]" Additionally, he maintains that Sergeant Flamma's affidavit was "misleading" and contained "intentional falsehoods" regarding the traffic stop leading to his arrest and the search of his vehicle.

On review of the grant of a motion to dismiss, "we must determine whether the complaint, on its face, discloses a legally sufficient cause of action." *Fioretti v. Maryland State Bd. of Dental Examiners*, 351 Md. 66, 72 (1998). In accordance therewith, "well-pleaded facts setting forth the cause of action must be pleaded with sufficient specificity; bald assertions and conclusory statements by the pleader will not suffice." *RRC Ne., LLC v. BAA Maryland, Inc.*, 413 Md. 638, 644 (2010). Further, to survive a motion for summary judgment, the record requires more than "the mere existence of a scintilla of evidence in support of the plaintiff's claim[.]" *Beatty v. Trailmaster Prod., Inc.*, 330 Md. 726, 738-39 (1993). Indeed, "there must be evidence upon which the jury could reasonably find for the plaintiff." *Id.*

Further, State personnel "are immune from suit in courts of the State and from liability in tort for a tortious act or omission that is within the scope of the public duties of the State personnel[.]" CJP § 5-522(b). An exception to the rule is when the State personnel

acts with “malice or gross negligence[.]” *Id.*; *see also Barbre v. Pope*, 402 Md. 157, 181-82 (2007) (“[S]tate personnel are not immune from suit and liability in tort when the plaintiff’s complaint sufficiently alleges malice or gross negligence.”). The Maryland Supreme Court has “consistently defined malice as ‘conduct characterized by evil or wrongful motive, intent to injure, knowing and deliberate wrongdoing, ill-will or fraud.’” *Id.* at 182 (internal quotation marks and citation omitted).

Here, although Mr. Turner contends that the court erred in granting appellees’ motions to dismiss, Mr. Turner does not dispute that appellees are immune from liability under CJP § 5-522. He fails to identify information he contends was “faulty” in the warrant application, let alone include any well-pleaded facts demonstrating malice or gross negligence in connection with the warrant application or the search.²

Nor do Mr. Turner’s challenges to Sergeant Flamma’s affidavit indicate error on behalf the circuit court. In the affidavit, Sergeant Flamma asserted that Mr. Turner’s vehicle was searched but not seized by police and left at Mr. Turner’s residence. In response, Mr. Turner did not dispute Sergeant Flamma’s claims.³ Accordingly, Mr. Turner failed to include the required “evidence upon which the jury could reasonably find for the

² It is unclear whether Mr. Turner challenged the application for the search warrant or the search itself during his criminal proceedings. Docket entries from the proceedings, attached as an exhibit in the circuit court record, do not indicate that he filed any motions challenging the warrant or the search.

³ He later challenged the affidavit in a motion for reconsideration.

plaintiff’ to successfully oppose the motion. *Beatty*, 330 Md. at 739. Finding no error in the matter before us, we shall affirm.

**JUDGMENT OF THE CIRCUIT
COURT FOR TALBOT COUNTY
AFFIRMED. COSTS TO BE PAID BY
APPELLANT.**