

UNITED STATES DISTRICT COURT
FOR THE [DISTRICT]

[YOUR NAME],)
)
 Plaintiff,)
)
 v.) Civil Action
 No. _____)
)
 OFFICER JANE MARTINEZ, et al.,)
)
 Defendants.)

PLAINTIFF'S RESPONSE IN OPPOSITION TO DEFENDANTS' MOTION TO DISMISS

Plaintiff respectfully submits this response in opposition to
Defendants' Motion to Dismiss.

I. INTRODUCTION

Defendants seek dismissal by ignoring the actual factual allegations of the Complaint and recasting them as legal conclusions. The Complaint alleges that Plaintiff stood on a public sidewalk, recorded police activity, did not interfere with officers, and was arrested for "disorderly conduct" without probable cause and in retaliation for protected speech. Those allegations are specific, plausible, and sufficient under Rule 8.

II. RULE 12(b)(6) STANDARD

At the motion-to-dismiss stage, the Court must accept well-pleaded factual allegations as true and draw reasonable inferences in Plaintiff's favor. The Court does not weigh evidence or resolve factual disputes.

III. THE FALSE ARREST CLAIM IS PLAUSIBLY PLED

The Complaint alleges:

- Plaintiff was seized and arrested;
- Defendants lacked probable cause;
- Plaintiff was released without charges after a brief detention;
- Plaintiff's conduct consisted of recording police from a public sidewalk without

interfering.

Taken as true, those facts give the court a solid reason to let the Fourth Amendment false-arrest claim go forward.

IV. THE FIRST AMENDMENT RETALIATION CLAIM IS PLAUSIBLY PLED

The Complaint alleges that Plaintiff was recording police in public, that such recording is protected activity, and that Defendants arrested Plaintiff because of that activity.

V. QUALIFIED IMMUNITY DOES NOT WARRANT DISMISSAL

Accepting the pleaded facts as true, no reasonable officer could believe there was probable cause to arrest a person who merely stood on a public sidewalk and recorded police without interference. In addition, the right to record police in public was clearly established in [controlling authority].

At a minimum, dismissal on qualified-immunity grounds is inappropriate where the defense depends on disputed facts, including what Plaintiff was doing, what officers observed, and what basis officers claimed for the arrest.

VI. THE MONELL CLAIM IS SUFFICIENTLY PLED

Plaintiff alleges more than boilerplate. The Complaint identifies the municipal defendant, the type of policy or custom at issue, prior incidents revealed through public records and prior lawsuits, and the City's failure to train and supervise officers regarding lawful recording and probable cause limits.

Those allegations are sufficient at the pleading stage to permit discovery into municipal liability.

VII. CONCLUSION

For these reasons, the Motion to Dismiss should be denied.