

warrants is not always automatically entered into all of the necessary databases, issued Mr. Shackelford a copy of the withdrawal order to keep upon his person or close by at all times. *Id.*

More than a month later, on May 22, 2014, Mr. Shackelford was in a car accident in Cranston, Rhode Island. *Id.* ¶ 10. The Cranston police arrived on the scene, made a report, and took down Mr. Shackelford's license, registration, and address. *Id.* They did not inform him of any outstanding warrants for his arrest.¹ *Id.*

Mr. Shackelford's Two Encounters with the Warwick Police

The first encounter

In the early morning hours of May 24, 2014, Mr. Shackelford noticed unknown persons in the front yard of his residence, located at 76 Knight Street in Warwick, Rhode Island. *Id.* ¶ 11. The persons turned out to be Warwick police officers, with a police canine, who came there "following some reports of breaks in the area." (ECF No. 26-5 at 2). The officers "were attempting to locate an individual who had vandalized a property nearby," and "held no belief that [Mr. Shackelford] was the culprit." (ECF No. 20 ¶ 12).

Noticing persons on his property, Mr. Shackelford came out of his house with a pellet gun at his side and "confronted the intruders." (*Id.* ¶ 11; ECF Nos. 26-5 at 2 and 26-4).² Mr. Shackelford asked the persons who they were, and they identified themselves as Warwick police. (ECF No. 26-4 at 44). In response, and after hearing and understanding that the persons in his backyard had identified themselves as Warwick police, Mr. Shackelford again asked who they were. *Id.* After the persons again identified themselves as Warwick police, Mr. Shackelford told them to get off his property. *Id.* The police told him they were there because they were looking

¹ Mr. Shackelford offers this incident as evidence that there was no active warrant for his arrest in any police database as of that date.

² Neither party provided Mr. Shackelford's entire deposition testimony.

for somebody throwing rocks. *Id.* Although Mr. Shackelford did not doubt that the persons in his yard were telling the truth, he nonetheless told them to get off his property for the second time. *Id.* at 45. (“Q: What did they say? A: They were looking for somebody throwing rocks. . . . Q: Did you doubt them, did you doubt what they told you? A: No, I didn’t doubt them.”)

At that point, the police “noticed that [Mr. Shackelford] had a black gun of some sort in [his] hand and they asked [him] to drop the weapon.” *Id.* The gun was later determined to be a pellet gun. (ECF No. 26-5 at 2). The officers “briefly detained [Mr. Shackelford] so that they could continue their search.” (ECF No. 20 ¶ 13). “Shortly thereafter, Warwick police officers left [Mr. Shackelford]’s property with no further incident.” *Id.* ¶ 14. Mr. Shackelford brings no claim based on the conduct of the Warwick police in this encounter.

The second encounter

Later that same day, at approximately 9:30 p.m., Mr. Shackelford had another encounter with the Warwick police. (ECF No. 20 ¶ 15). Mr. Shackelford recalls that someone was shining lights through his windows from the street in front of his home, and he “exited his residence looking for the source of the light.”³ *Id.* ¶ 16. He saw a person who turned out to be Defendant Officer Stephen Major driving in his police car and asked him “what’s going on?” (ECF No. 26-4 at 56). Officer Major “turned off his spotlight and he moved forward approximately about six,

³ Officer Major testified that on the night of May 24, 2014, he was driving on Knight Street with his flood light on, checking the area because of vandalism that had been occurring on his beat. (ECF No. 26-3 at 14-15). He testified he had his light on to try to catch the vandal in the act, or in the least to deter him. *Id.* at 15. He testified that he panned his light back and forth and may have spotlighted 76 Knight Street when he passed that residence while driving eastward once, then drove to the Cranston line, and turned around. *Id.* at 16-17. He did not pass that residence again because Mr. Shackelford was already outside, yelling. *Id.* at 17. Officer Major testified that he did not know at first that the individual outside was the same person involved in the early morning fracas — all he knew was that a person was “screaming and yelling.” *Id.* at 20. Mr. Shackelford offers no evidence — not even his own testimony — that contradicts Officer Major’s account of his actions with respect to the flood light.

seven feet and he yelled out of his window, excuse me?” *Id.* “And that’s when [Mr. Shackelford] asked him what [he was] doing,” this time using an expletive. *Id.* At that point, Officer Major was still in his cruiser. *Id.*

Mr. Shackelford recalls that Officer Major then “pulled up a little bit further to be adjacent to my driveway. He then parked his car . . . and he started approaching me, coming into my driveway and closer to me.” *Id.* Mr. Shackelford remained on his side of the porch and asked Officer Major what he was doing and why he was entering Mr. Shackelford’s property. *Id.* at 56, 58.

Shortly thereafter, Officer Major asked Mr. Shackelford if he was Travis and then arrested him.⁴ *Id.* at 58-59. After arresting Mr. Shackelford, Officer Major informed him that he had a warrant for his arrest in regards to a child support order. *Id.* at 58-59. Mr. Shackelford responded that the warrant “had been vacated and asked that he be allowed to get the original court issued and signed carbon copy of the Order he had been given by the Family court withdrawing the bench warrant/body attachment.”⁵ (ECF No. 20 ¶ 19). Officer Major denied Mr. Shackelford’s request, saying that it was “above my paygrade.” *Id.* ¶ 20.

⁴ Officer Major testified that he “placed [Mr. Shackelford] in handcuffs[,] double locked them so they didn’t get tight, put him in [the police] car . . . , seatbelted him in and rolled the window down.” (ECF No. 26-3 at 45).

⁵ Mr. Shackelford does not seem to allege, nor does he put forth any evidence, that he had the Family Court order vacating the warrant for his arrest on his person at the time he was arrested by Officer Major. If Mr. Shackelford made this claim in his deposition, that part of his testimony was not provided to this Court by any party. Furthermore, in his interrogatory responses, Officer Major stated that upon Mr. Shackelford’s arrest, Mr. Shackelford stated “something like, that he had paperwork from a Judge about the warrant that he wanted to go and retrieve,” suggesting that Mr. Shackelford did not have the order on his person at the time of his arrest. (ECF No. 26-5 at 2). Because the only evidence before the Court on this issue is Officer Major’s Interrogatory Responses, this Court must assume for the purposes of this Order that Mr. Shackelford did not have the vacating order on his person at the time of his arrest and did not tell Officer Major that he had the order on his person.

Officer Major transported Mr. Shackelford to a holding cell, and then later took him to the Adult Correction Institutions. (ECF No. 26-4 at 80). He was in custody over the Memorial Day weekend from Saturday night until Tuesday afternoon, when he was brought before the Family Court. *Id.* at 80-81. He explained his situation to the Family Court judge, who apologized, “said somewhere along the lines that he would have [the warrant] removed from the system, once more . . . apologized to [Mr. Shackelford] and . . . released [him].” *Id.* at 81.

Warwick Police’s Conduct Concerning Mr. Shackelford Outside of their Encounters with Him.

Officer Major testified that he works the 3 p.m. – 11 p.m. shift and that his usual beat includes Mr. Shackelford’s neighborhood. (ECF No. 26-3 at 5, 7, 11). On May 24, 2014, before starting his beat, Officer Major was informed about the early morning incident at Mr. Shackelford’s residence. *Id.* at 5-6. He was told that during the police’s investigation into some vandalism in the area, Mr. Shackelford came out of his house with a gun on the side of his leg and aggressively confronted the police, screaming obscenities. *Id.* at 8-9. The police “drew down on him” and ordered him to drop his weapon, which he finally did.” *Id.* at 9. Officer Major testified that he had had no interactions with Mr. Shackelford prior to May 24, 2015. *Id.* at 11-12.

Following the early morning encounter, the Warwick police apparently looked up Mr. Shackelford in their database and found what appeared to be an active warrant for his arrest.⁶ Officer Major testified that before he started his beat, he believed that there was an active warrant for Mr. Shackelford’s arrest, based on two searches run through a computer warrant

⁶ Officer Major stated in his interrogatory responses that “[a]t some point, I spoke with Officer Aaron Steere who advised me that he had done a RILETS/NCIC check, and that he was aware that there was an active warrant for the arrest of Mr. Shackelford.” (ECF No. 26-5 at 2). He also testified that “[a]t some point during my shift, I confirmed through a RILETS/NCIC check that the warrant for the arrest of the plaintiff was still active.” *Id.*

database called Rhode Island Law Enforcement Telecommunications System (“RILETS”).⁷ (ECF Nos. 26-5 at 2 and 26-3 at 9-15; 34-35). While it is unclear exactly when Officer Major allegedly found out about this apparent warrant, it is undisputed that he became aware of it before he arrested Mr. Shackelford, based on Mr. Shackelford’s deposition testimony that Officer Major informed him of the warrant during the arrest. (ECF No. 26-4 at 59) (“He mentioned that I had a warrant and I said I don’t have a warrant. And he said it was in regards to a child support order, and I said that that was already taken . . .”).⁸ After arresting Mr. Shackelford and placing him in the police car, Officer Major confirmed for the third time that the warrant was active, this time through a police dispatcher.⁹ (ECF Nos. 26-3 at 34-35 and 26-5 at 2).

Officer Major testified that the Warwick police had at some point prepared a document about Mr. Shackelford that contained the following language: “officers use caution when dealing with this male subject. He carries video surveillance with him at all times and videotapes officers.” (ECF No. 26-3 at 21). Officer Major also testified that prior to starting his beat on May 24, he was made aware that Mr. Shackelford had previously videotaped the police and uploaded videos of them on YouTube. *Id.* at 22-23.

Mr. Shackelford does not offer any evidence to dispute Officer Major’s assertions that he was told about Mr. Shackelford’s warrant, then confirmed that it existed before arresting him,

⁷ The RILETS database allows a police officer to pull up a person’s wanted status by entering in certain information about a person. Officer Major can access RILETS through a laptop computer mounted in the middle of his police cruiser. (ECF No. 26-3 at 13-14).

⁸ The excerpt from Mr. Shackelford’s deposition testimony cuts off at the word “taken.”

⁹ Defendants offer a RILETS printout, time-stamped May 24, 2014 at 10:21:41 p.m. and 22:14:00 p.m., of what appears to be a record showing an active warrant for Mr. Shackelford’s arrest. (ECF Nos. 22-2 and 26-3 at 35-37).

and confirmed it a third time after the arrest.¹⁰ Insofar as Mr. Shackelford alleges that the Cranston police's failure to arrest Mr. Shackelford following his car accident on May 22 constitutes contradictory evidence, he is mistaken.¹¹

II. STANDARD OF REVIEW

At the summary judgment stage, the court looks at all of the evidence and resolves all factual disputes in favor of the nonmoving party, here: Mr. Shackelford. "The court shall grant summary judgment if the [Defendants] show[] that there is no genuine dispute as to any material fact and the [Defendants are] entitled to judgment as a matter of law." Fed. R. Civ. P. 56.

III. LEGAL ANALYSIS

A. "False Arrest, False Imprisonment"

A police officer is semi-insulated from liability under principles of qualified immunity for claims arising under the federal and state Constitutions. *Hatch v. Town of Middletown*, 311 F.3d 83, 89-90 (1st Cir. 2002) citing *Pontbriand v. Sundlun*, 699 A.2d 856, 867 (R.I. 1997) and *Ensey v. Culhane*, 727 A.2d 687, 690-91 (R.I. 1999). In the appropriate circumstances, the court may inquire into the conduct of an objectively reasonable official for purposes of deciding qualified immunity, without delineating the extent of the constitutional rights allegedly violated. *Pearson v. Callahan*, 555 U.S. 223, 225 (2009). Insofar as Mr. Shackelford alleges deprivation

¹⁰ For example, Mr. Shackelford does not offer any testimony from the officer who allegedly told Officer Major about the warrant or from the dispatcher who allegedly confirmed the existence of the warrant in the database.

¹¹ Mr. Shackelford suggests that because the Cranston police did not arrest him after his car accident, that perhaps there was no active RILETS warrant for his arrest. (ECF No. 26 at 6-7). But Mr. Shackelford offered no evidence about whether the Cranston police use the same RILETS warrant database as the Warwick police, and if they do, whether they saw a warrant and chose not to arrest, or whether they simply did not run the RILETS check. The simple fact that the Cranston police took down Mr. Shackelford's information following an automobile accident and did not arrest him does not constitute evidence that the Warwick police fabricated the warrant relied upon to arrest Mr. Shackelford.

of actual constitutional rights clearly established at the time of the alleged action or inaction, Officer Major is only liable if an objectively reasonable official would have believed that the action taken violated those constitutional rights. *Starlight Sugar, Inc. v. Soto*, 253 F.3d 137, 141 (1st Cir. 2001).

Mr. Shackelford claims that Defendants violated his rights under the federal and state Constitutions by arresting him on a vacated warrant, citing *Wilson v. City of Boston*, 421 F.3d 45 (1st Cir. 2005). His reliance on *Wilson* is misplaced and therefore his claim fails. First, the facts in *Wilson* are inapposite because the plaintiff in that case “had no criminal record and was never subject to an arrest warrant” but was mistakenly swept up in a mass arrest sting. *Id.* at 47. In contrast, the Warwick police arrested Mr. Shackelford under the reasonable but false impression that a vacated warrant against him was actually active. Second, even the arresting officer in *Wilson* was found not liable as a matter of law. *Id.* at 59. The Court finds that an objectively reasonable official, given all of the undisputed facts in this case viewed in the light most favorable to Mr. Shackelford, would not have believed that the actions taken by Officer Major violated a clearly established constitutional right to be free from “false arrest, false imprisonment.” The Court grants summary judgment to Officer Major on this claim.

B. “Malicious Prosecution”

Malicious prosecution is “a suit for damages resulting from a prior criminal or civil legal proceeding that was instituted maliciously and without probable cause, and that terminated unsuccessfully for the plaintiff therein. *Palazzo v. Alves*, 944 A.2d 144, 152 (R.I. 2008) citing *Clyne v. Doyle*, 740 A.2d 781, 782 (R.I.1999). Although Mr. Shackelford alleges that Officer Major only arrested him because he had ordered the police off his property, or because he sometimes videotapes the police, or both, he has put forward no evidence substantiating these

allegations. Because there is no evidence that Officer Major acted maliciously the Court grants Officer Major summary judgment.

C. “*Selective Enforcement/Prosecution*”

Mr. Shackelford stakes his claim in the “Selective Enforcement/Prosecution” cause of action by arguing that Officer Major only arrested Mr. Shackelford on a Family Court warrant because Mr. Shackelford had ordered the police off his property, or because he sometimes videotapes the police, or because of both of those behaviors. He cites Officer Major’s Interrogatory Responses and his deposition to make the argument that “Officer Major had never - in his 9 years of police work – deliberately sought out an individual to arrest them on a bench warrant - excepting the one time he was called in to back up another officer.” (ECF No. 26 at 4).

As an initial matter, Mr. Shackelford’s summation does not accurately reflect the evidence. In his interrogatory responses, Officer Major replied only as to the time period between January 1, 2014 and December 31, 2014, and his deposition testimony is not to the contrary. (ECF Nos. 26-5 at 3-4 and 26-3 at 40-42). Therefore, Mr. Shackelford has only presented evidence that in 2014, Officer Major arrested just one other person besides Mr. Shackelford on a bench warrant.

More importantly, to withstand summary judgment on a claim for selective enforcement of criminal laws, Mr. Shackelford must offer some evidence that could allow a factfinder to conclude that the government prosecuted a claim on the basis of “impermissible grounds such as race, religion or exercise of First Amendment rights.” *Wayte v. United States*, 470 U.S. 598, 605 (1985). Mr. Shackelford has simply not done so — all he has offered is his suspicion that the police acted for those impermissible reasons. At the summary judgment stage, suspicion and conjecture are insufficient; Mr. Shackelford must put forward some evidence of a genuine

dispute as to a material fact. Because Mr. Shackelford has failed in this requirement, summary judgment must be granted to Officer Major on this claim.

D. Claims against the City, Including “Unconstitutional Custom or Policy / Deliberate Indifference.”

The City of Warwick could only be liable to the extent that “the execution of [its] policy or custom, whether made by its lawmakers or by those whose edicts or acts may fairly be said to represent official policy, inflicts the injury.” *Monell v. Dep’t of Soc. Servs.*, 436 U.S. 658, 694 (1978). Mr. Shackelford has put forward no evidence of any unlawful City policy that harmed him.¹² Therefore, summary judgment is granted to the City of Warwick on this claim.

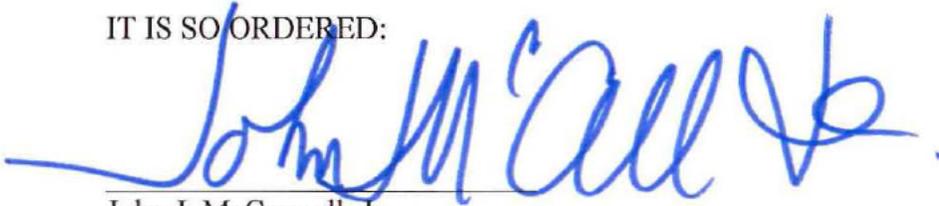
To the extent Mr. Shackelford bases any claims against City of Warwick on Officer Major’s conduct, those claims also fail. “A municipality cannot be held liable solely because it employs a tortfeasor — or in other words, a municipality cannot be held liable under § 1983 on a *respondeat superior* theory.” *Id.* at 691. Therefore, even if any member of the Warwick police were liable to Mr. Shackelford, he could not sue based on that fact alone.

¹² Mr. Shackelford argues that City of Warwick’s policy of dealing with individuals whose warrants have been withdrawn is illegal, but he has put forward no evidence about whether the City has such a policy, and if so, what that policy is, let alone that it is unlawful.

IV. CONCLUSION

For the reasons stated above, and finding that there are no genuine issues of material fact to be decided and that the Defendants are entitled to judgment as a matter of law, the Defendants' Motion for Summary Judgment (ECF No. 22) is GRANTED.

IT IS SO ORDERED:



John J. McConnell, Jr.
United States District Judge

October 21, 2015