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STATE OF MICHIGAN

COURT OF APPEALS

MATTHEW NICHOLS and CELESTE NICHOLS,

Plaintiffs-Appellants,

v

VILLAGE OF ROMEO, DANIEL SOKOLNICKI, ROBERT PRIEST, and PATRICK BAUER,

Defendants-Appellees.

UNPUBLISHED
November 25, 2026
10:33 AM

No. 373222
Macomb Circuit Court
LC No. 2024-000560-CZ

Before: GARRETT, P.J., and LETICA and TREBILCOCK, JJ.

PER CURIAM.

According to plaintiff Matthew Nichols, former Village of Romeo Police Officer Robert Priest effectuated a traffic stop to exact revenge flowing from the pair's prior work-related disputes. Plaintiff seeks to hold Priest, two other officers, and Romeo liable for that traffic stop. The trial court granted summary disposition in defendants' favor on governmental immunity and legal sufficiency grounds. We affirm.

I. PERTINENT FACTS AND PROCEDURAL HISTORY

This appeal arises from the trial court's grant of summary disposition under MCR 2.116(C)(7) (governmental immunity) and (C)(8) (failure to state a claim). As applicable here, those rules mandate that we take as true a complaint's well-pleaded factual allegations. See *Maiden v Rozwood*, 461 Mich 109, 119; 597 NW2d 817 (1999) (MCR 2.116(C)(7)); *Schafer v Kent Co*, 515 Mich 1, 20; 29 NW3d 25 (2024) (MCR 2.116(C)(8)). They are as follows.

Plaintiff[1] is the City of Warren's former Deputy Commissioner of Police. One of his duties in that role was supervising defendant Priest, then also a Warren Police Officer. That past working relationship provides the foundation for this lawsuit.

During their tenure together, plaintiff oversaw—as chair of the Warren Police Department's promotional review board—the denial of Priest's application to be promoted to Lieutenant; the board concluded that Priest was not "qualified for the position." Then, in May 2021 (apparently after Warren no longer employed plaintiff), Warren gave Priest "the option of retiring or being fired." The documented reason for his exit from employment with the Warren Police Department is "retired in good standing." Plaintiff alleges that is false.

Priest secured subsequent employment with the Romeo Police Department. Defendant Daniel Sokolnicki, Romeo's Chief of Police, hired Priest as a probationary Police Officer despite knowing, plaintiff claims, that "Priest was not 'retired in good standing.' " Upon joining the Romeo Police Department, Priest advised his supervising officer, defendant Patrick Bauer, that he had some "special projects that he would be taking care of." Plaintiff alleges that targeting him was one of those "special projects."

In February 2023, plaintiff says that came to fruition. Priest ostensibly conducted a traffic stop for plaintiff's failure to signal a turn,[2] but pretextually did so for the purpose of taking out "his own personal vendetta and revenge" on plaintiff. During the stop, Priest "had his face concealed and never identified himself." Then, when back in the patrol car to write citations (for failing to signal, an equipment violation for a broken turn signal, and no proof of insurance), audio captured Beck's 1994 alternative-rock hit "Loser" and its chorus—"I'm a loser baby, so why don't you kill me?"—playing on loop in Priest's car. It also recorded Priest's phone call to Bauer, who asked Priest if the stop was one of his "special projects." In a sarcastic manner, Priest answered: "What makes you think that, sir? . . . Yes indeed." Bauer laughed, and Priest further expressed his enthusiasm for writing plaintiff tickets: it was "the fucking dream."

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[1] His wife, Celeste Nichols, is also a plaintiff. Her loss-of-consortium claim is derivative of his claims; so, for ease, we use the term "plaintiff" to refer to Matthew Nichols in lieu of referring to "plaintiffs" collectively.

[2] We note a discrepancy in the events between plaintiff and defendants. Plaintiff's complaint asserts that Priest "parked his patrol vehicle at the end of Plaintiff's street and upon Plaintiff exiting his Village of Romeo subdivision, Priest pulled Plaintiff over . . . ." Citing video of the stop, defendants contend Priest was traveling along Van Dyke Freeway before the stop. That video at most captures that Priest was traveling at a high rate of speed (up to 70 miles per hour). Regardless, Priest's location before the stop matters not for resolving this appeal. Finally, there appears to be some dispute between the parties as to whether plaintiff filed the video with the trial court (plaintiff says he did and Priest apparently contends otherwise). We assume for purposes of appeal that plaintiff did because—although not noted on the register of actions—the trial court referred to the video when it heard defendants' motions for summary disposition and because all parties relied on the video in their papers below and on appeal here.

After learning that Priest was the officer who conducted the traffic stop, plaintiff engaged counsel, who used the Freedom of Information Act to obtain the stop's recordings (and other documentation). Counsel also subpoenaed Bauer to appear at an April 2023 hearing on the citations. Neither he nor Priest appeared, the prosecutor ultimately declined to pursue the citations any further, and the district court entered an order dismissing the traffic citations without prejudice.

Plaintiff then commenced this litigation. He asserts five substantive counts: (1) malicious prosecution against Priest, Bauer, and Sokolnicki, (2) abuse of process against Priest, Bauer, and Sokolnicki, (3) civil conspiracy against Priest and Bauer, (4) intentional infliction of emotional distress against Priest and Bauer; and (5) gross negligence against Sokolnicki and Romeo.[3] In lieu of filing answers, defendants filed various motions for summary disposition under MCR 2.116(C)(7) and (C)(8). The trial granted each in defendants' favor in a written opinion and order. Plaintiff now appeals by right.

II. CLAIMS AGAINST THE POLICE OFFICERS

We start with plaintiff's individual claims against Priest, Bauer, and Sokolnicki. None survive summary disposition.[4]

1. PRIEST AND BAUER

Plaintiff asserts four claims against Priest and Bauer: malicious prosecution, abuse of process, civil conspiracy, and intentional infliction of emotional distress. The trial court granted summary disposition on these claims under (C)(8) for failure to state a claim on which relief can be granted. Reviewing de novo, *Schafer*, 515 Mich at 19, we address each in turn.

Malicious Prosecution. We begin with plaintiff's main claim—that Priest's issuance of three traffic citations and Bauer's condoning thereof constitutes a malicious prosecution of a civil proceeding, which provides a remedy "for the wrongful initiation or continuation of civil proceedings . . . ." *Friedman v Dozorc*, 412 Mich 1, 35; 312 NW2d 585 (1981). It has four elements: (1) termination of prior proceedings in a plaintiff's favor, (2) absence of probable cause for those proceedings, (3) malice, and (4) a special injury flowing directly from the prior proceedings. *Payton v Detroit*, 211 Mich App 375, 394-395; 536 NW2d 233 (1995). To resolve

[3] Celeste also alleges a derivative loss-of-consortium claim, on which the trial court granted summary disposition. Plaintiff identifies that grant as one of the questions presented on appeal, but provided no argument supporting that issue. That constitutes abandonment. See *Highland Park v State Land Bank Auth*, 340 Mich App 593, 612; 986 NW2d 638 (2022).

[4] Plaintiff's appellant brief faults the trial court for improperly granting summary disposition on qualified-immunity grounds. That assertion belies the record below, for the trial court's opinion and order expressly *disclaimed* application of qualified immunity given its merits-based conclusions of law. Regardless, it does not matter for purposes of this appeal given our de novo review of the issues presented as discussed in text.

this appeal, we assume for the sake of argument that plaintiff can satisfy the first three elements and focus on his inability to demonstrate a special injury.[5]

Michigan follows the "English rule" for special injuries flowing from civil malicious prosecution claims: "in the absence of an arrest, seizure, or special damage, the successful civil defendant has no remedy, despite the fact that his antagonist proceeded against him maliciously and without probable cause." *Friedman*, 412 Mich at 34 (quotation marks and citation omitted). In adopting that approach, our Supreme Court in *Friedman* noted three historical common-law "categories of damage which would support an action for malicious prosecution . . . : injury to one's fame (as by a scandalous allegation), injury to one's person or liberty, and injury to one's property." *Id*. at 33. *Friedman* declined to define "the precise boundaries" of what constitutes a "special injury," *id.* at 41, but did categorically identify one such category—"an interference with the plaintiff's person or property," *id*. at 34. And in applying that rule, our Supreme Court held the plaintiff—a doctor who claimed attorneys wrongfully brought a medical malpractice claim against him, costing him litigation costs, increase in business expenses, and "damages to his reputation as a physician and surgeon, embarrassment and continued mental anguish"—fell short of the special-injury requirement. *Id*. at 18-19, 34.

Subsequent opinions from this Court have given further meaning to the special-injury requirement. It "must be some injury which would not necessarily occur in all suits prosecuted for similar causes of action." *Barnard v Hartman*, 130 Mich App 692, 696; 344 NW2d 53 (1983). For that reason, "damage to [a plaintiff's] professional reputation . . . which would ordinarily result when an action like that brought by the defendants . . . is brought against a person in a position analogous to that of the plaintiff" does not suffice. *Id*. So too for "[i]nterference with one's usual business and trade, including the loss of goodwill, profits, business opportunities and the loss of reputation." *Young v Motor City Apartments Ltd Dividend Housing Ass'n No 1 & No 2*, 133 Mich App 671, 677; 350 NW2d 790 (1984). See also *Early Detection Ctr, PC, v New York Life Ins Co*, 157 Mich App 618, 628; 403 NW2d 830 (1986) ("the monetary effect the prior litigation had on the business, the cost of the litigation, embarrassment and emotional distress, damage to [the] plaintiff['s] . . . reputation, [and] damage to the goodwill of his business" is insufficient).

Below, relying on this caselaw, the trial court opined that "appearing in traffic court does not amount to [a special] injury . . . ." We agree. While plaintiff claims these events brought him and his wife mental anguish, embarrassment, and reputational damage, *Friedman* and its progeny demand more, and thus foreclose plaintiff's malicious prosecution claims against Priest and Bauer.

Abuse of Process. We next consider plaintiff's abuse-of-process claim, for which he says Priest and Bauer are liable because they failed to show up at the hearing concerning his traffic citations.

[5] The lack of probable cause in this case is questionable at best, given, as part of his citizen's complaint that he filed with Romeo and attached to his complaint, he admitted that his "turn signal bulb was burned out" and that he "had already purchased the replacement bulb." He made similar admissions in statements to Priest that were captured on Priest's body-worn camera.

"Abuse of process is the wrongful use of the process of a court." *Lawrence v Burdi*, 314 Mich App 203, 211; 886 NW2d 748 (2016) (quotation marks and citation omitted). Its essence is that "the tortfeasor has sought to accomplish an ulterior, unlawful objective by dint of judicial processes ostensibly directed to a collateral, permissible end." *Rochester Hills v Six Star, Ltd*, 167 Mich App 703, 707; 423 NW2d 322 (1988). See also *Dalley v Dykema Gossett*, 287 Mich App 296, 322; 788 NW2d 679 (2010) ("A complaint [asserting an abuse of process] must allege more than the mere issuance of the process, because an action for abuse of process lies for the improper use of process after it has been issued, not for maliciously causing it to issue.") (quotation marks and citation omitted); *Vallance v Brewbaker*, 161 Mich App 642, 646; 411 NW2d 808 (1987) ("A meritorious claim of abuse of process contemplates a situation where the defendant has availed himself of a proper legal procedure for a purpose collateral to the intended use of that procedure," such as using discovery "for the improper purpose of imposing an added burden and expense on the opposing party in an effort to conclude the litigation on favorable terms."). Accordingly, "[t]o recover upon a theory of abuse of process, a plaintiff must plead and prove (1) an ulterior purpose and (2) an act in the use of process which is improper in the regular prosecution of the proceeding." *Friedman*, 412 Mich at 30.

Measured against these standards, the trial court appropriately granted summary disposition in Priest's and Bauer's favor on plaintiff's abuse-of-process claim. Simply, plaintiff's complaint lacks any allegation that they used judicial process against him *after* issuance of the traffic citations. As the trial court recognized, their failure to show up to the hearing did not "impos[e] an added burden and expense on [plaintiff] in an effort to conclude the litigation on favorable terms," *Vallance*, 161 Mich App at 646; i.e., their inaction falls short of using judicial process *against* plaintiff.[6]

Intentional Infliction of Emotional Distress. "To establish a claim of intentional infliction of emotional distress, a plaintiff must prove the following elements: (1) extreme and outrageous conduct, (2) intent or recklessness, (3) causation, and (4) severe emotional distress." *Hayley v Allstate Ins Co*, 262 Mich App 571, 577; 686 NW2d 273 (2004) (quotation marks and citation omitted). "The conduct complained of must be so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency, and to be regarded as atrocious and utterly intolerable in a civilized community." *Id.* (quotation marks and citation omitted). It "does not extend to mere insults, indignities, threats, annoyances, petty oppressions, or other trivialities"; rather, we consider whether "the recitation of the facts to an average member of the community would arouse his resentment against the actor, and lead him to exclaim, 'Outrageous!' " *Swain v Morse*, 332 Mich App 510, 534; 957 NW2d 396 (2020) (quotation marks and citations omitted). Finally, "[i]t is for the trial court to initially determine whether the defendant's conduct may reasonably be regarded as so extreme and outrageous as to permit recovery." *Hayley*, 262 Mich App at 577. If so, a plaintiff is entitled to have a jury make that ultimate conclusion. *Id*.

Below, the trial court held none of the alleged conduct—conducting a traffic stop, playing "Loser" on repeat, engaging in "special projects," and wearing a mask while doing so—constituted

[6] Because we resolve the appeal on this ground, we do not consider defendants' preservation-based arguments given the less-than-artful brief plaintiff submitted on appeal.

extreme and outrageous conduct. We discern no error in this conclusion. At best, defendants' alleged conduct constitutes "insults" and "indignities" that fall short of the required outrageous conduct. *Swain*, 332 Mich App at 534.

Civil Conspiracy. Remaining is plaintiff's claim that Priest's and Bauer's actions represent a conspiracy subject to civil liability. "A civil conspiracy is a combination of two or more persons, by some concerted action, to accomplish a criminal or unlawful purpose, or to accomplish a lawful purpose by criminal or unlawful means." *Id*. at 530 (quotation marks and citation omitted). A plaintiff alleging a civil conspiracy "must establish some underlying tortious conduct." *Urbain v Beierling*, 301 Mich App 114, 132; 835 NW2d 455 (2013). Because plaintiff failed to do just that, the trial court correctly granted summary disposition on plaintiff's civil conspiracy claim.

2. SOKOLNICKI

Having resolved the claims asserted against Priest and Bauer, we need to only address in short form plaintiff's claims against Sokolnicki based on his hiring and supervision of plaintiff's antagonist Priest. The trial court found Sokolnicki was absolutely immune under MCL 691.1407(5) and thus granted him summary disposition under (C)(7). In his appellant brief, plaintiff does not assert any argument concerning why the trial court's application of absolute immunity principles was incorrect, rendering it abandoned. *Highland Park v State Land Bank Auth*, 340 Mich App 593, 612; 986 NW2d 638 (2022).[7] Instead, he faults Sokolnicki for being grossly negligent in hiring and supervising Priest. But whether Sokolnicki engaged in tortious conduct is separate from whether absolute immunity bars recovery for that tortious conduct. And regardless, MCL 691.1407(5)'s broad grant of immunity applies here, not MCL 691.1407(2)'s gross-negligence carve-out for employees not covered by section (5). See, e.g., *Nalepa v Plymouth-Canton Co Sch Dist*, 207 Mich App 580, 588; 525 NW2d 897 (1994). There is simply no error below on which plaintiff can tether his appeal.

III. CLAIM AGAINST VILLAGE OF ROMEO

We end with plaintiff's claim against the Village of Romeo. He contends it is vicariously liable for Sokolnicki's grossly negligent act of hiring Priest. Governmental immunity bars this claim.

The governmental tort liability act grants governmental agencies—like the Village of Romeo—immunity from tort liability when engaged in a governmental function. MCL 691.1407. This grant "is expressed in the broadest possible language—it extends immunity to all governmental agencies for *all* tort liability whenever they are engaged in the exercise or discharge of a governmental function." *Nawrocki v Macomb Co Rd Comm*, 463 Mich 143, 156; 615 NW2d 702 (2000). It is a plaintiff's burden to allege specific facts warranting application of one of the

[7] Plaintiff's reply brief does raise issue with the trial court's absolute-immunity holding. That is too late. *Kinder Morgan Mich, LLC v City of Jackson*, 277 Mich App 159, 174; 744 NW2d 184 (2007) ("[A] party may not raise new or additional arguments in its reply brief."). We also note that the Village of Romeo ordinance to which plaintiff's reply brief points in support concerning the powers of the Village Manager was repealed in 2014.

act's exceptions to governmental immunity. *McLean v McElhaney*, 289 Mich App 592, 597; 798 NW2d 29 (2010).

In granting Romeo summary disposition, the trial court held plaintiff failed to allege specific facts establishing a governmental-immunity exception. While we owe no deference to that conclusion with our de novo review of denials of summary-disposition motions predicated upon governmental immunity grounds, *Champine v Dep't of Transp*, 509 Mich 447, 452; 983 NW2d 741 (2002), we also agree Romeo is entitled to summary disposition under (C)(7).

As a government entity, Romeo enjoys "immunity when 'engaged in the exercise or discharge of a governmental function' unless the plaintiff establishes the existence of a statutorily created exception to that immunity." *Odom v Wayne Co*, 482 Mich 459, 478; 760 NW2d 217 (2008), quoting MCL 491.1407(1). Plaintiff claims Romeo is not entitled to tort immunity due to grossly negligent conduct. True, MCL 491.1407(2)(c) provides an "exception to the grant of immunity to an officer or employee of a governmental agency." *Yoches v Dearborn*, 320 Mich App 461, 476; 904 NW2d 887 (2017). But that exception for employees "does not provide that a governmental agency otherwise entitled to immunity can be vicariously liable for the officer's or employee's gross negligence." *Id*. Nor does plaintiff's citation to *Hamed v Wayne Co*, 490 Mich 1; 803 NW2d 237 (2011), persuade us to think otherwise. In *Hamed*, our Supreme Court declined to extend vicariously liability for quid pro quo sexual harassment affecting public services under Michigan's Civil Rights Act. *Id*. at 5-6. This is not an employment matter, and more importantly, our Legislature has expressly exempted Civil Rights Act claims from governmental immunity. See *Mack v Detroit*, 467 Mich 186, 195 n 9; 649 NW2d 47 (2002), citing MCL 37.2103(g) and 37.2202(a). As discussed, it has not done so for plaintiff's claims here.

IV. CONCLUSION

Although we agree with the trial court that plaintiff's complaint does not allege legally sufficient claims, our holding today should not be read as condoning the complaint's alleged misconduct as reflected in the audio and video recordings of the traffic stop. We do not.

With that observation and for these reasons, we affirm the trial court's judgment. Defendants, as prevailing parties, may tax costs under MCR 7.219(A).

/s/ Kristina Robinson Garrett
/s/ Anica Letica
/s/ Christopher M. Trebilcock