

REPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2052

SEPTEMBER TERM, 2002

BRENDA CANDELERO ET AL.

v.

CHRISTOPHER COLE ET AL.

Kenney,
Eyler, Deborah S.,
Greene,

JJ.

Opinion by Kenney, J.

Filed: September 3, 2003

PaineWebber Inc. v. East, 363 Md. 408, 422, 768 A.2d 1029, 1036 (2001).

In the complaint, the count for malicious prosecution provided:

63. [Candeloro] alleges, herein, as if fully set forth, all factual allegations of the previously numbered paragraphs.
64. The false arrest and imprisonment of ... Candeloro, by ... [Trooper] Cole, resulted in the prosecution of [Candeloro] in the District Court and Circuit Court for Baltimore County as aforesaid.
65. In addition thereto, [Trooper] Cole, drafted and filled out a narrative statement of probable cause as a "basis" for the false charges he lodged against ... Candeloro. The allegations that ...[Trooper] Cole made in the statement of probable cause were completely false despite the fact that they were made under oath.
66. [Trooper] Cole acted with malice and without probable cause in causing the charges against ... Candeloro to be lodged and in prosecution of the case. Malice was the primary purpose of [Trooper] Cole in instituting the proceedings against Candeloro.
67. The proceedings were terminated in [Candeloro's] favor, and there was an absence of probable cause for that in any event.
68. As a result of [Trooper] Cole's conduct and actions, Candeloro has suffered, and will continue to suffer, severe mental anguish, loss of reputation, medical and other related expenses, and loss of income.

In establishing a claim for malicious prosecution, a plaintiff must prove the following four elements:

1) a criminal proceeding instituted or continued by the defendant against the plaintiff; 2) without probable cause; 3) with malice, or with a motive other than to bring the offender to justice; and 4) termination of the proceeding in favor of the plaintiff.

Heron v. Strader, 361 Md. 258, 264, 761 A.2d 56 (2000). Concerning the fourth element, a criminal proceeding is terminated when any of the following occur: a judge discharges the accused at a preliminary hearing, "refusal of a grand jury to indict, 'the formal abandonment of the proceedings by the public prosecutor,' quashing of an indictment or information, acquittal, or a final order in favor of the accused by a trial or appellate court." *State v. Meade*, 101 Md. App. 512, 530, 647 A.2d 830 (1994) (quoting *Restatement (Second) of Torts*, §659). If the facts are undisputed about the termination of a proceeding, then a "court has no need for a finding of the jury." *Palmer Ford, Inc. v. Wood*, 298 Md. 484, 498-99, 471 A.2d 297 (1984).

The malicious prosecution claim adopted "all factual allegations of the previously numbered paragraphs" and referred to the "charges [Trooper Cole] lodged against ... Candeloro," but did not identify the charges resulting from the incident. The charges included assault, resisting arrest, disorderly conduct, wearing and carrying mace, and disobeying the lawful order of a police officer. At trial, the State *nolle prossed* all of the charges except disobeying the lawful order of a police officer, for which Candeloro was convicted. Because the outcome of the proceeding was

not favorable to Candeloro, the malicious prosecution claim failed as a matter of law.

JUDGMENTS AFFIRMED.

COSTS TO BE PAID BY APPELLANT.