

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ARISTIDES CARDOSO,)	
)	
Plaintiff,)	CIVIL ACTION NO.
v.)	09-10701-DPW
)	
CITY OF BROCKTON, BPD CHIEF)	
OF POLICE WILLIAM K. CONLON,)	
BROCKTON POLICE OFFICER)	
STANLEY DAVID)	
)	
Defendants.)	

MEMORANDUM AND ORDER

March 23, 2012

On the core issue in this case, the jury returned a defendants' verdict finding there was probable cause to file an application for a criminal complaint against the plaintiff for assault and battery with a dangerous weapon and disorderly conduct. I thereafter invited the parties to brief what appears to be the only question that it might be argued was not effectively resolved by the jury's fact-finding: whether as a matter of law or fact the plaintiff's retaliatory arrest claim survives a finding of probable cause for the arrest. The parties responded, at my invitation, by means of cross motions for summary judgment.

In my procedural order inviting summary judgment briefing, I drew the parties' attention to the split in the Circuits over the

issue whether a retaliatory arrest claim survives a probable cause determination, reflected in the Tenth Circuit's decision in *Howards v. McLaughlin*, 634 F.3d 1131, 1147-48 (10th Cir. 2011). The Supreme Court thereafter granted *certioari* in *Howards* under the name *Reichle v. Howards*, 132 S.Ct. 815 (2011) (Supreme Court No. 11-262). The Supreme Court heard oral argument on Wednesday in the case. Having reviewed the transcript of the oral argument, I believe it is prudent to await the Supreme Court's ruling. Consequently, I decline to rule at this time on the pending cross motions for summary judgment. I direct the clerk to stay this matter pending the decision of the Supreme Court in *Howards*.

/s/ Douglas P. Woodlock
DOUGLAS P. WOODLOCK
UNITED STATES DISTRICT JUDGE