

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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DWAYNE GISCOMBE,

Plaintiff,

- against -

CITY OF NEW YORK, NYPD DETECTIVE  
DAVID MARCONI, NYPD UNDERCOVER  
OFFICER #UC0063, NYPD UNDERCOVER  
OFFICER #UC0249,

Defendants.  
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**FILED**  
IN CLERK'S OFFICE  
US DISTRICT COURT E.D.N.Y.

★ AUG 25 2017 ★

BROOKLYN OFFICE

15 CV 4454 (RJD) (RML)

**MEMORANDUM AND ORDER**

DEARIE, District Judge

The defendants seek summary judgment in favor of defendants Detective David Marconi and Undercover Officer UC0249. Familiarity with the facts, allegations, asserted defenses and controlling law is assumed.

The motion is granted and the claims against Detective Marconi and UC0249 are dismissed with prejudice. The undisputed facts make clear that Detective Marconi and UC0249 had probable cause to arrest plaintiff. The absence of contraband or buy money on plaintiff's person does not impact the analysis. While it likely influenced the outcome of the underlying criminal case, it does not impact the Fourth Amendment analysis or otherwise undermine the appropriateness of the actions taken by Detective Marconi and UC0249.

A pretrial conference will be held before the undersigned on November 8, 2017 at 11:00am. Jury selection and trial will begin on March 19, 2018.

The motion for partial summary judgment is granted.

SO ORDERED.

Dated: Brooklyn, New York  
August ~~2~~, 2017

s/ RJD  
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RAYMOND J. DEARIE  
United States District Judge