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APPROVAL OF THE APPELLATE DIVISION**

This opinion shall not "constitute precedent or be binding upon any court." Although it is posted on the internet, this opinion is binding only on the parties in the case and its use in other cases is limited. R. 1:36-3.

**SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-1326-23**

ZUMAR MUHAMMAD,

Plaintiff-Appellant,

v.

**CITY OF JERSEY CITY, HUDSON
COUNTY PROSECUTOR'S OFFICE,
STATE OF NEW JERSEY,
PROSECUTOR ESTER SUAREZ,
PROSECUTOR WILLIAM BAILEY,
NEW JERSEY ATTORNEY
GENERAL MATTHEW J. PLATKIN,
POLICE OFFICER(S) A. PAULINO,
K. ARMSTRONG, M. RIAZ,
M. ALVARO, E. MATUTE,
S. GIANTS, S. GIGANTE, and
KEVIN WENDOWKOWSKI,**

Defendants-Respondents.

Submitted March 12, 2024 – Decided June 26, 2024

Before Judges Sumners and Smith.

On appeal from the Superior Court of New Jersey, Law
Division, Hudson County, Docket No. L-4806-20.

Cecile D. Portilla, Attorney at Law, LLC, attorney for appellant (Cecile D. Portilla, on the brief).

Peter J. Baker, Corporation Counsel, attorney for respondents the City of Jersey City, Kevin Wendokowski, Anjan Paulino, Eduardo Matute, Keith Armstrong and Monique Alvarado (Peter J. Baker and Philip S. Adelman, Assistant Corporation Counsel, on the brief).

PER CURIAM

Plaintiff Zumar Muhammad appeals from the trial court's October 6, 2023, order granting in part his motion to reinstate his complaint as to certain defendants: Hudson County Prosecutor's Office, the State of New Jersey, Prosecutor Ester Suarez, Prosecutor William Bailey, and New Jersey Attorney General Gurbir Grewal (State defendants). Muhammad argues the court erred when it declined to reinstate the complaint as to the remaining defendants: Jersey City, K. Wendokowski, A. Paulino, E. Matute, K. Armstrong, and M. Alvaro (City defendants).

This matter arises from an alleged wrongful arrest that occurred on September 9, 2018, which led to plaintiff's indictment. Multiple officers approached plaintiff while he was standing next to his vehicle and asked to see his credentials. Plaintiff produced his driver's license, carriers permit, and a "constable ID." In response to questioning, plaintiff told the officers he had a

firearm in a black duffle bag in the back seat of his car. Officers then arrested plaintiff prior to obtaining a warrant or seizing a firearm. On plaintiff's successful suppression motion, the court found the officer's testimony was inconsistent and contradicted by surveillance footage.

The court granted defendant's motion to dismiss the indictment on February 6, 2020. Next, plaintiff filed an initial complaint in the Law Division on December 31, 2020 and an amended complaint the following day on January 1, 2021.

On June 14, 2021, a motion judge granted the City defendants' motion to dismiss all claims with prejudice, finding plaintiff failed to file his complaint within the statute of limitations. However, on August 2, 2021, the judge partially granted plaintiff's motion for reconsideration, finding the malicious prosecution claim viable, and modifying its order to dismiss that claim without prejudice. The judge did not disturb the rest of the order, and plaintiff's other claims against the City defendants remained dismissed with prejudice.

Plaintiff appealed the June 14 and August 2, 2021 orders. The State defendants moved to remand the matter, and we granted that motion.

On remand, plaintiff filed a motion to reinstate his complaint as to all defendants. The City defendants opposed the motion, while the State defendants

did not. Judge Joseph Turula, a second motion judge issued an order on October 6, 2023, making findings. The judge found our remand did not supersede the June 14 and August 2, 2021 orders dismissing plaintiff's claims against the City defendants, but that plaintiff still could "file a motion to amend the complaint to add malicious prosecution" and "plead more specific allegations giving rise to the malice." In lieu of filing an amended complaint, plaintiff now appeals the October 6 order.

"Whether to grant or deny a motion to reinstate a complaint lies within the sound discretion of the trial court." Sullivan v. Coverings & Installation, Inc., 403 N.J. Super. 86, 93 (App. Div. 2008). We decline to interfere with a judge's decision on a motion to reinstate a complaint unless it appears that "an injustice has been done." Cooper v. Consolidated Rail Corp., 391 N.J. Super. 17, 23 (App. Div. 2007).

The record shows plaintiff did not oppose the State's motion to remand. The record also shows plaintiff neither sought reconsideration of our June 1, 2023 remand order nor did he file for petition for certification with the Supreme Court. Our remand order did not reverse original motion court orders dismissing the City defendants. Plaintiff also did not move to amend his malicious prosecution claim.

We affirm substantially for the reasons set forth by Judge Turula in support of his order on October 6, 2023. We simply add that the remainder of plaintiff's claims are procedurally deficient, as they pertain to alleged errors within the June 14 and August 2, 2021 orders, which are not properly before us. Any other contentions raised on appeal lack sufficient merit to warrant discussion in a written opinion. R. 2:11-3(e)(2).

Affirmed.

I hereby certify that the foregoing
is a true copy of the original on
file in my office



CLERK OF THE APPELLATE DIVISION