510 So.2d 1242
District Court of Appeal of Florida, Third District.

Richard BETTEZ, Appellant,
v.
The CITY OF MIAMI, Appellee.

No. 86–3043
|
Aug. 18, 1987.

**Synopsis**

Action was brought against city for false arrest, false imprisonment and malicious prosecution. The Circuit Court, Dade County, Richard S. Hickey, J., entered summary judgment for city and appeal was taken. The District Court of Appeal held that: (1) trial court had inherent authority to reconsider its prior interlocutory ruling denying motion for summary judgment and to thereafter enter summary judgment, and (2) evidence established that police had probable cause to arrest plaintiff, and seek to have plaintiff criminally prosecuted, so that city could not be held liable for false imprisonment, false arrest or malicious prosecution.

Affirmed.

**Procedural Posture(s):** Motion for Summary Judgment.

West Headnotes (3)

**[1]** **Motions** Reargument or rehearing

Trial court has inherent authority to reconsider any of its interlocutory rulings prior to entry of final judgment or final order in case.

23 Cases that cite this headnote

**[2]** **Summary Judgment** Reargument, rehearing, or reconsideration

Notwithstanding fact that city mislabeled its motion for reconsideration as motion for rehearing, trial court had inherent authority to reconsider its prior interlocutory ruling denying city's motion for summary judgment, and to thereafter enter summary judgment for city.

13 Cases that cite this headnote

**[3]** **False Imprisonment** Justification

**Malicious Prosecution** Probable cause and malice

Undisputed evidence established that arresting police officers were informed by witnesses to incident that plaintiff had committed aggravated battery on civilian, and that plaintiff committed battery on auxiliary police officer while arresting officers were investigating incident, and thus police had ample probable cause to arrest plaintiff, and seek to have plaintiff criminally prosecuted, so that city could not be held liable for false arrest, false imprisonment, or malicious prosecution.

1 Case that cites this headnote

**Attorneys and Law Firms**

***1242** Alan R. Soven, Miami, for appellant.

Weinstein, Bavly & Moon and Scott Weinstein, Miami, for appellee.

Before HUBBART, PEARSON, DANIEL S. and FERGUSON, JJ.

**Opinion**

PER CURIAM.

This is an appeal by the plaintiff Richard Bettez from an adverse final summary judgment entered below in a false arrest, false imprisonment, and malicious prosecution action. We affirm based on the following briefly stated legal analysis.

**[1]** **[2]** First, we reject the plaintiff's contention that the trial court had no authority to entertain the defendant City of Miami's motion to reconsider the trial court's prior ***1243** interlocutory ruling denying the defendant's motion for summary judgment, and to thereafter enter a summary judgment for the defendant. It is well settled in this state that a trial court has inherent authority to reconsider, as here, any of its interlocutory rulings prior to the entry of a final judgment or final order in the cause. The fact that the defendant

  

mislabeled his motion as a motion for rehearing under Fla.R.Civ.P. 1.530 cannot change this result as the motion was, in substance, a proper motion for reconsideration. *See* *Alabama Hotel Co. v. J.L. Mott Iron Works,* 86 Fla. 608, 98 So. 825 (1924); *Margulies v. Levy,* 439 So.2d 336 (Fla. 3d DCA 1983); *Nelson v. Cravero Constructors, Inc.,* 117 So.2d 764 (Fla. 3d DCA 1960); *see also* *Commercial Garden Mall v. Success Academy, Inc.,* 453 So.2d 934 (Fla. 4th DCA 1984).

**[3]** Second, the record demonstrates, without dispute, that the arresting police officers were informed by witnesses to the subject incident that the plaintiff had committed an aggravated battery on a civilian; moreover, the plaintiff, without material dispute, committed a battery on an auxiliary police officer while the arresting officers were investigating the incident. This being so, the police had ample probable cause to arrest the plaintiff and, subsequently, to seek to have the plaintiff criminally prosecuted; a summary judgment for the defendant City of Miami was, therefore, entirely appropriate in this case. *See* *DeMarie v. Jefferson Stores, Inc.,* 442 So.2d 1014, 1017 (Fla. 3d DCA 1983); *Crawford v. State,* 334 So.2d 141 (Fla. 3d DCA 1976); *Salas v. State,* 246 So.2d 621 (Fla. 3d DCA 1971).

The final summary judgment under review is, in all respects,

Affirmed.

**All Citations**

510 So.2d 1242, 12 Fla. L. Weekly 2036

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