

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

MITCHELL FERNANDORS,

Plaintiff,

v.

DISTRICT OF COLUMBIA, et al.,

Defendants.

Civil Action No. 02-2001 (JDB)

ORDER

Upon consideration of defendants' motion for summary judgment, the memoranda and other materials filed by the parties and the entire record herein, and for the reasons stated in the Memorandum Opinion filed on this date, it is this 15th day of August 2005, hereby

ORDERED that defendants' motion for summary judgment is **GRANTED** in part and **DENIED** in part; it is further

ORDERED that defendants' motion for summary judgment on the ground that plaintiff's common law tort claims against Officers Allen, Washington, Fenton, and Howland (Counts VIII-XI) are barred by the statute of limitations is **DENIED**; it is further

ORDERED that plaintiff's respondeat superior claim against the District of Columbia (Count XII) is dismissed, and judgment is entered in favor of the District of Columbia; it is further

ORDERED that plaintiff's Fifth Amendment claims against all defendants (Counts V-VII) are dismissed, and judgment is entered in favor of defendants; it is further

ORDERED that plaintiff's Fourth Amendment claim against unnamed supervisory

officers (Counts II) is dismissed, and judgment is entered in favor of unnamed supervisory officers; it is further

ORDERED that Officers Fenton and Howland have qualified immunity against plaintiff's Fourth Amendment claims for false arrest and lack of probable cause to conduct a search, but do not have qualified immunity on plaintiff's Fourth Amendment claim alleging the manner of the search was unreasonable, and judgment is entered accordingly; it is further

ORDERED that Officers Allen and Washington do not have qualified immunity on plaintiff's Fourth Amendment claims; it is further

ORDERED that plaintiff's Fourth Amendment claim against the District of Columbia (Count III) is dismissed, and judgment is entered in favor of the District of Columbia; it is further

ORDERED that all claims against Officer Andres Marcucci are dismissed, and judgment is entered in favor of Officer Marcucci; and it is further

ORDERED that a status conference is scheduled for September 19, 2005 at 9:00 am.

/s/ John D. Bates

JOHN D. BATES

United States District Judge

Copies to:
Robert A. Jablon
Spiegel & McDiarmid
1333 New Hampshire Avenue, N.W.
Washington, D.C. 20036
Counsel for plaintiff

Robert DeBerardinis, Jr.
D.C. Corporation Counsel

P.O. Box 14600

Washington, D.C. 20044-4600

Counsel for defendants