

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

\_\_\_\_\_  
EMMANUEL ANDRO  
Plaintiff

v.

\_\_\_\_\_  
TOWN OF BROOKLINE, ET AL.  
Defendants  
\_\_\_\_\_

Civil Action No. 15- 13030-NMG

**DEFENDANT STEVEN W. TOMPKINS'  
MOTION TO DISMISS PURSUANT TO FED. R. CIV. P. 12(b)(6)**

The Defendant, Steven Tompkins, moves this Honorable Court to dismiss all claims asserted against him by the Plaintiff the Emmanuel Andro. Plaintiff alleges, *inter alia*, that Tompkins violated his rights secured by the Fourth and Fourteenth Amendment of the United States Constitution, as well as subjected him to false imprisonment/false arrest. The Plaintiff seeks monetary damages as well as injunctive relief. The Plaintiff does not allege facts sufficient to survive a motion to dismiss pursuant to Fed. R. Civ. P. 12(b)(6). The Complaint is void of facts to sustain a due process claim. Likewise, there are no facts to support an unreasonable seizure or false arrest against claim against Tompkins.

Additionally, Tompkins is entitled to Eleventh Amendment immunity; qualified immunity, and is protected from personal liability under the Mass. Torts Claims Act, Mass. Gen. L. ch. 258 et seq. Accordingly, this Honorable Court should dismiss these claims pursuant to Fed R. Civ P. 12 (b)(6).

Defendant relies on the accompanying Memorandum of Law.

*Because this defendant has already filed his answer (see Docket No. 43), motion denied without prejudice to his filing a motion for judgment on the pleadings. See Fed. R. Civ. P. 12 (b) and (c).*

*J. M. Gorton, USDT 8/17/16*