

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

_____	]	
EMMANUEL ANDRO	]	
Plaintiff	]	
	]	Civil Action No. 15- 13030-NMG
v.	]	
	]	
TOWN OF BROOKLINE, ET AL.	]	
Defendants	]	
_____	]	

**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.

Respectfully submitted,  
For Defendant,  
Steven Tompkins  
By his attorney,  
MAURA HEALEY  
ATTORNEY GENERAL

Kathleen M. Cawley  
Special Assistant Attorney General

/s/ Kathleen M. Cawley  
Kathleen M Cawley  
Deputy General Counsel  
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Date: August 10, 2016

### **CERTIFICATE OF SERVICE**

I hereby certify that on August 10, 2016, this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and a paper copy will be sent the Plaintiff via first class mail at the following address:

Emmanuel Andro, Pro Se,  
1764 Dorchester Ave, #2,  
Boston, MA 02124  
(617) 596-161

/s/ Kathleen M Cawley  
Kathleen M. Cawley

### Local Rule 7.1 Certification

I certify that I consulted with the plaintiff via telephone in an effort to narrow the issues raised by this motion.

/s/ Kathleen M. Cawley  
Kathleen M. Cawley