

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
PENNSYLVANIA

Joslyn Dallas v. Thomas Assenmacher et al.

Dallas v. Assenmacher · No. No. 24-1882 · Decided February 23, 2026

SUMMARY

The United States District Court for the Eastern District of Pennsylvania grants in part and denies in part Defendants’ motion for judgment on the pleadings in Joslyn Dallas’s § 1983 action arising from her removal from a SEPTA bus and subsequent tasing. The court dismisses the conspiracy, false arrest, assault and battery claims with prejudice, finding insufficient conspiracy allegations and probable cause for arrest based on defiant trespass. The court dismisses the Monell claim against SEPTA without prejudice and grants leave to amend, while noting that the excessive force claims against the individual officers were not challenged.

CASE DETAILS

COURT	United States District Court for the Eastern District of Pennsylvania
WRITING FOR THE COURT	R. Barclay Surrick
JURISDICTION	United States District Court for the Eastern District of Pennsylvania
DECIDED	February 23, 2026
DOCKET	No. 24-1882
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff brought claims under 42 U.S.C. § 1983 for excessive force, conspiracy, false arrest, and municipal liability, along with state-law assault and battery claims. Defendants moved under Federal Rule of Civil Procedure 12(c) for judgment on the pleadings as to the conspiracy, false arrest, assault and battery, and Monell claims.
STANDARD OF REVIEW	A Rule 12(c) motion is reviewed under the same standard as a Rule 12(b)(6) motion. The court accepts well-pleaded factual allegations as true, disregards legal conclusions, and determines whether the alleged facts plausibly show an entitlement to relief.
PRECEDENTIAL VALUE	Nonprecedential district court memorandum and order
PARTIES	Joslyn Dallas v. Thomas Assenmacher, Michael Sylvester, Brandon Maxwell, Southeastern Pennsylvania Transportation Authority

TOPICS

motion for judgment on the pleadings

section 1983

municipal liability

police misconduct

civil procedure

PRACTICE AREAS

civil procedure

civil rights

constitutional law

municipal liability

torts

QUESTIONS PRESENTED

1. Whether the complaint plausibly alleged a conspiracy under 42 U.S.C. § 1983 based on the officers' coordinated conduct during the arrest.
2. Whether the complaint plausibly alleged a § 1983 false-arrest claim where the officers allegedly had probable cause to arrest Dallas for defiant trespass.
3. Whether the assault and battery claims should be dismissed where Plaintiff did not oppose dismissal.
4. Whether the complaint plausibly alleged municipal liability against SEPTA under Monell based on an unconstitutional policy or custom or failure to train, supervise, or discipline.

HOLDINGS

1. The complaint did not plausibly allege a conspiracy because the allegation that two officers obeyed a sergeant's command during a violent altercation, without more, did not establish an agreement, understanding, or meeting of the minds to violate Plaintiff's constitutional rights.
2. The false-arrest claims failed because the facts alleged in the complaint established probable cause to arrest Dallas for defiant trespass as a matter of law.
3. The assault and battery claims were dismissed because Plaintiff did not oppose their dismissal.
4. The complaint did not plausibly allege that an unconstitutional SEPTA policy or custom, or a deliberately indifferent failure to train, supervise, or discipline, was the moving force behind the alleged constitutional injury.

KEY QUOTATIONS

“Here, the alleged fact that two officers obeyed a command given by a sergeant during a violent altercation, without more, does not amount to a sufficient showing of an agreement or understanding among conspirators to substantiate a plausible conspiracy.”

“Given that the Plaintiff acknowledges that she was repeatedly told by officers to leave the bus yet chose to remain, a jury could not reasonably find that probable cause did not exist to arrest Plaintiff for defiant trespass.”

“Because Plaintiff fails to provide any such facts that could raise her allegations from possible to plausible, her Monell claim cannot proceed.”

FACTUAL BACKGROUND

Dallas allegedly paid only part of a bus fare and remained seated after Officer Assenmacher told her to leave the bus. Officers Assenmacher and Sylvester forcibly removed her, and Sergeant Maxwell allegedly tased her after she continued to resist and/or flee. Dallas alleged physical and psychological injuries and asserted that SEPTA maintained unconstitutional use-of-force and passenger-nonpayment policies and failed to train, supervise, or discipline its officers.

PROCEDURAL HISTORY

Dallas alleged that SEPTA police officers forcibly removed her from a bus and that Sergeant Maxwell later tased her. Defendants moved for judgment on the pleadings. The court granted dismissal with prejudice as to the conspiracy, false arrest, assault, and battery counts, and dismissed the Monell claim without prejudice while granting leave to amend.

DISPOSITION

other

CASES CITED

- *Wolffington v. Reconstructive Orthopaedic Associates II PC*, 935 F.3d 187, 195 (3d Cir. 2019)
- *Revell v. Port Authority of New York & New Jersey*, 598 F.3d 128, 134 (3d Cir. 2010)
- *Fowler v. UPMC Shadyside*, 578 F.3d 203, 210–11 (3d Cir. 2009)
- *Ashcroft v. Iqbal*, 556 U.S. 662, 678–79 (2009)
- *Kelleher v. City of Reading*, No. 01-3386, 2002 WL 1067442, at *7 (E.D. Pa. May 29, 2002)
- *Miller v. Goggin*, 672 F. Supp. 3d 14, 53 (E.D. Pa. 2023)
- *Gale v. Storti*, 608 F. Supp. 2d 629, 635 (E.D. Pa. 2009)
- *Groman v. Township of Manalapan*, 47 F.3d 628, 634 (3d Cir. 1995)
- *Orsatti v. New Jersey State Police*, 71 F.3d 480, 483 (3d Cir. 1995)
- *Estate of Smith v. Marasco*, 318 F.3d 497, 514 (3d Cir. 2003)
- *Sherwood v. Mulvihill*, 113 F.3d 396, 401 (3d Cir. 1997)
- *Bordenkircher v. Hayes*, 434 U.S. 357, 364 (1978)
- *Fullman v. City of Philadelphia*, No. 22-4282, 2023 WL 6881040 (E.D. Pa. Oct. 17, 2023)
- *Fullman v. City of Philadelphia*, No. 23-3073, 2024 WL 1637550 (3d Cir. Apr. 16, 2024)
- *Egolf v. Witmer*, 421 F. Supp. 2d 858, 867 (E.D. Pa. 2006)
- *Egolf v. Witmer*, 526 F.3d 104 (3d Cir. 2008)
- *Barna v. City of Perth Amboy*, 42 F.3d 809, 819 (3d Cir. 1994)
- *Rivera-Guadalupe v. City of Harrisburg*, 124 F.4th 295, 303 (3d Cir. 2024)
- *Commonwealth v. Downing*, 511 A.2d 792, 793–94 (Pa. 1986)
- *Commonwealth v. Bettis*, 347 A.3d 779, 787–88 (Pa. Super. 2025)
- *Feldman v. Community College of Allegheny*, 85 F. App'x 821, 825–26 (3d Cir. 2004)
- *Board of County Commissioners of Bryan County, Oklahoma v. Brown*, 520 U.S. 397, 400 (1997)

- *Monell v. Department of Social Services of City of New York*, 436 U.S. 658, 694 (1978)
- *Forrest v. Parry*, 930 F.3d 93, 105–06 (3d Cir. 2019)
- *Brown v. SEPTA*, 539 F. App'x 25, 27 (3d Cir. 2013)
- *Wood v. Williams*, 568 F. App'x 100, 104 (3d Cir. 2014)
- *3909 Realty LLC v. City of Philadelphia*, No. 21-0030, 2021 WL 2342929, at *4 (E.D. Pa. June 8, 2021)
- *Godson v. City of Philadelphia*, No. 24-6461, 2025 WL 757101, at *9–10 (E.D. Pa. Mar. 10, 2025)
- *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007)
- *Beers v. County of Northumberland*, No. 23-2555, 2024 WL 2874283, at *2 (3d Cir. June 7, 2024)
- *Keahey v. Bethel Township, Pennsylvania*, No. 11-7210, 2012 WL 478936 (E.D. Pa. Feb. 15, 2012)
- *Estate of Arrington v. Michael*, No. 11-4534, 2012 WL 398765 (E.D. Pa. Feb. 8, 2012)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA JOSLYN DALLAS:: CIVIL ACTION v.: NO. 24-1882 THOMAS ASSENMACHER ET AL.: MEMORANDUM AND ORDER AND NOW, this 23rd day of February, 2026, upon consideration of Defendants’ Motion for Judgment on the Pleadings Pursuant to Federal Rule of Civil Procedure 12(c) Seeking Dismissal of Counts IV, V, VI, VII, VIII, IX, X and XI of Plaintiff’s Complaint (ECF No. 14) and all documents submitted in support thereof and in opposition thereto, it is ORDERED that the Defendants’ Motion for Judgment on the Pleadings is GRANTED as follows: 1.

Background Plaintiff Joslyn Dallas (“Dallas” or “Plaintiff”) brings claims under 42 U.S.C. § 1983 (“Section 1983”) for excessive force, conspiracy to commit excessive force, and false arrest, as well as common law assault and battery claims, against each of Officer Thomas Assenmacher (“Assenmacher”), Officer Michael Sylvester (“Sylvester”), and Sergeant Brandon Maxwell (“Maxwell”) (together, the “Defendant Officers”) of the Southeastern Pennsylvania Transportation Authority Police Department.

The claims arise from an incident that took place on May 11, 2022, when Assenmacher and Sylvester forcibly removed Dallas from a city bus for failing to pay the full fare and Maxwell subsequently tased Dallas after she continued to resist and/or flee the officers. These events allegedly resulted in physical and psychological trauma to Dallas. Plaintiff also brings a Section 1983 Monell claim against the Southeastern Pennsylvania Transportation Authority (“SEPTA”), alleging that SEPTA “developed and maintained policies and/or customs exhibiting deliberate indifference to the constitutional rights of individuals during the course of arrests, including the policy regarding use of force and policy regarding passengers who do not pay the full fare.” (Complaint, ECF No. 1, at ¶ 60.)

Defendants have moved for judgment on the pleadings as to Dallas’s conspiracy, false arrest, assault and battery, and Monell claims. Plaintiff does not oppose dismissal of the assault and

battery claims, but she argues that all other claims should be allowed to proceed to discovery. Federal Rule of Civil Procedure 12(c) permits a party to make a motion for judgment on the pleadings “[a]fter the pleadings are closed—but early enough not to delay trial.” Fed.

R. Civ. P. 12(c). Courts review a motion for judgment on the pleadings “under the same standards that apply to a Rule 12(b)(6) motion.” *Wolfington v. Reconstructive Orthopaedic Assocs. II PC*, 935 F.3d 187, 195 (3d Cir. 2019) (quoting *Revell v. Port Auth. of N.Y. & N.J.*, 598 F.3d 128, 134 (3d Cir. 2010)).

To assess a Rule 12(b)(6) motion to dismiss for failure to state a claim, courts conduct a two-part analysis: First, the court separates the factual and the legal elements of a claim. The court “must accept all of the complaint’s well-pleaded facts as true, but may disregard any legal conclusions.” *Fowler v. UPMC Shadyside*, 578 F.3d 203, 210–11 (3d Cir. 2009).

Second, the court determines “whether the facts alleged in the complaint are sufficient to show that the plaintiff has a ‘plausible claim for relief.’” *Id.* (quoting *Ashcroft v. Iqbal*, 556 U.S. 662, 679 (2009)). At issue is Defendants’ motion for judgment on the pleadings as to Plaintiff’s conspiracy, false arrest, and Monell claims. 2.

The Defendant Officers The Defendant Officers have moved for judgment on the pleadings as to the conspiracy, false arrest, and assault and battery claims against them. As mentioned, Plaintiff does not oppose dismissal of the assault and battery claims in Counts VIII, IX, and X. To prove conspiracy under Section 1983, a plaintiff must establish: (1) the existence of a single plan, the essential nature and general scope of which was known to each person who is to be held responsible for the consequences; (2) that the purpose of the plan was to violate a constitutional right of the plaintiff; and (3) that an overt act resulted in the actual deprivation of the plaintiff’s constitutional rights.

Kelleher v. City of Reading, No. 01-3386, 2002 WL 1067442, at *7 (E.D. Pa. May 29, 2002). Defendants assert that “[t]he Complaint is wholly devoid of any factual basis regarding when, how or why the Defendant Officers formed ‘a single plan’ ‘to violate the constitutional rights of the plaintiff.’” (Def. Mem., ECF No. 14-1, at 6 (quoting *Kelleher*, 2002 WL 1067442, at *7).)

In response, Plaintiff argues that Maxwell told Assenmacher and Sylvester to let go of Dallas so that he could tase her, demonstrating that the three were working together to subject Plaintiff to excessive force. (Pl. Opp’n Mem., ECF No. 16, at 6.)

We find that this interaction on its own fails to substantiate a conspiracy allegation. “To prove the existence of a conspiracy, plaintiff must plead that there was ‘an agreement, understanding, or “meeting of the minds” to violate the plaintiff’s rights.’” *Miller v. Goggin*, 672 F. Supp. 3d 14, 53 (E.D. Pa. 2023) (quoting *Gale v. Storti*, 608 F. Supp. 2d 629, 635 (E.D.

Pa. 2009)). Here, the alleged fact that two officers obeyed a command given by a sergeant during a violent altercation, without more, does not amount to a sufficient showing of an agreement or understanding among conspirators to substantiate a plausible conspiracy.

The motion to dismiss Count IV is granted. A claim for false arrest under Section 1983 requires a plaintiff to demonstrate that the police lacked probable cause to arrest the plaintiff. *Groman v. Twp. of Manalapan*, 47 F.3d 628, 634 (3d Cir. 1995). “[P]robable cause to arrest exists when the facts and circumstances within the arresting officer’s knowledge are sufficient in themselves to warrant a reasonable person to believe that an offense has been or is being committed by the person to be arrested.” *Orsatti v. New Jersey State Police*, 71 F.3d 480, 483 (3d Cir.

1995). Although probable cause is usually a question of fact for the jury, a court may conclude “that probable cause did exist as a matter of law if the evidence, viewed most favorably to the Plaintiff, reasonably would not support a contrary factual finding,” and may enter summary judgment accordingly.” *Est. of Smith v. Marasco*, 318 F.3d 497, 514 (3d Cir.

2003) (quoting *Sherwood v. Mulvihill*, 113 F.3d 396, 401 (3d Cir.1997)). Here, Defendants assert that Plaintiff’s own summary of the facts clearly shows that probable cause existed to arrest her for the crime of defiant trespass. (Def. Mem. at 8–9.) Plaintiff responds that the fact that the Office of the District Attorney of Philadelphia ultimately declined to charge her with defiant trespass demonstrates that reasonable minds could differ on the issue.

(Pl. Opp’n Mem. at 7.) According to Plaintiff, she was falsely arrested because the Defendant Officers did not have probable cause to arrest her for either of the crimes with which she was charged¹: simple trespass and resisting arrest. (Id. at 7–8.) Plaintiff’s arguments are unavailing on this issue. It is well established that “the decision whether or not to prosecute, and what charge to file... generally rests entirely in [a prosecutor’s] discretion.” *Bordenkircher v. Hayes*, 434 U.S. 357, 364 (1978); see also *Fullman v. City of Philadelphia*, No. 22-4282, 2023 WL 6881040 (E.D.

Pa. Oct. 17, 2023) (quoting *Bordenkircher* in support of the Philadelphia district attorney’s discretion not to prosecute), *aff’d* but criticized on other grounds, No. 23-3073, 2024 WL 1637550 (3d Cir. Apr. 16, 2024).

Accordingly, the fact that a prosecutor chose not to charge Plaintiff with defiant trespass has no bearing on whether probable cause existed to arrest her for that crime. See *Egolf v. Witmer*, 421 F. Supp. 2d 858, 867 (E.D. Pa. 2006) (concluding that “the District Attorney’s subjective view about the advisability of prosecution does not impugn the Troopers’ correct determination that they had probable cause to 1 All charges against Plaintiff were dismissed on July 22, 2022.

(Complaint at ¶ 21; Def. Mem. at 3.) arrest Plaintiffs”), *aff’d*, 526 F.3d 104 (3d Cir. 2008). In addition, “[p]robable cause need only exist as to any offense that could be charged under the circumstances,” *Barna v. City of Perth Amboy*, 42 F.3d 809, 819 (3d Cir. 1994), so whether

probable cause existed to suspect Plaintiff of simple trespass and resisting arrest is irrelevant if probable cause is established as to the offense of defiant trespass.

See also *Rivera-Guadalupe v. City of Harrisburg*, 124 F.4th 295, 303 (3d Cir. 2024) (affirming that the “any-crime rule” applies to false arrest claims). This leaves us with the ultimate question of whether the facts observed by the Defendant Officers at the time of the arrest would have warranted a reasonable person to believe that Plaintiff was committing defiant trespass.

See *Orsatti*, 71 F.3d at 483, *supra*. Under Pennsylvania law, a person commits defiant trespass “if, knowing that he is not licensed or privileged to do so, he enters or remains in any place as to which notice against trespass is given by... actual communication to the actor.” 18 Pa. Cons. Stat. Ann. § 3503(b)(1)(i). Repeated requests by a property owner or other authorized individual that an actor leave a place constitutes the “notice against trespass” required by the statute.

See *Com. v. Downing*, 511 A.2d 792, 793–94 (Pa. 1986) (actor guilty of defiant trespass where he was asked repeatedly to leave law library by professor and campus security); *Commonwealth v. Bettis*, 347 A.3d 779, 787–88 (Pa. Super. 2025) (“Appellant may have thought that he had a right to be on the property, but once he was told that he could not remain... any right to remain clearly ceased.”); *Feldman v. Cmty.*

Coll. of Allegheny, 85 F. App’x 821, 825–26 (3d Cir. 2004) (affirming District Court’s grant of summary judgment for defendants on Section 1983 false arrest claim, finding “that there was ample probable cause to arrest this defiant trespasser who refused to obey repeated requests by the owner’s agents to leave”).

In her complaint, Plaintiff acknowledges that she “paid a portion of the fare, but [did] not pay the full fare and took a seat on the bus.” (Compl., ECF No. 1, ¶ 7.) Plaintiff also states that she “was approached by defendant Assenmacher, who told Plaintiff that she had to exit the bus” and that she continued to remain seated on the bus after the officer informed her that she must leave.

(Compl. ¶ 8–10.) Given that the Plaintiff acknowledges that she was repeatedly told by officers to leave the bus yet chose to remain, a jury could not reasonably find that probable cause did not exist to arrest Plaintiff for defiant trespass. Plaintiff therefore cannot plead false arrest, and the motion to dismiss Counts V, VI, and VII is granted.

Accordingly, it is ORDERED that Counts IV, V, VI, VII, VIII, IX, and X are DISMISSED with prejudice. 3. Monell Claim We last address Plaintiff’s Monell claim, which seeks to hold SEPTA liable under Section 1983 for the Defendant Officers’ alleged use of excessive force.² A municipality³ may be found liable under Section 1983 if “deliberate action attributable to the municipality itself is the ‘moving force’ behind the plaintiff’s deprivation of federal rights.” *Bd. of Cnty.*

Comm’rs of Bryan Cnty., Okl. v. Brown, 520 U.S. 397, 400 (1997) (emphasis omitted) (quoting Monell v. Dep’t of Soc. Servs. of City of New York, 436 U.S. 658, 694 (1978)). The Third Circuit has explained that a Monell claim for municipal liability may proceed in two ways: a plaintiff may plead that an unconstitutional policy or custom of the municipality led to the plaintiff’s injury, or, alternately, that the injury was caused by some deficiency—such as a failure to train, to supervise, or to discipline—reflecting a deliberate choice by the municipality.

Forrest v. Parry, 930 F.3d 93, 105 (3d Cir. 2019). A plaintiff pursuing a policy theory “must point to an 2 Although this Memorandum and Order dismisses all other constitutional claims against the Defendant Officers, the Defendants did not move for dismissal of Plaintiff’s excessive force claims (Counts I–III). 3 “For the purposes of § 1983, SEPTA is treated as a municipal agency when determining its liability, if any.” Brown v. SEPTA, 539 F. App’x 25, 27 (3d Cir.

2013) (citing precedent). official proclamation, policy or edict by a decisionmaker possessing final authority to establish municipal policy on the relevant subject.” Id. “[I]f alleging a custom, the plaintiff must evince a given course of conduct so well-settled and permanent as to virtually constitute law.” Id. at 105– 06. If alleging a municipal failure, the plaintiff must show “a failure or inadequacy amounting to deliberate indifference on the part of the municipality.” Id. at 106.

Defendants argue that Count XI must be dismissed because Plaintiff “has failed to plead any facts” demonstrating the existence of a policy, custom, or pattern of failures indicating deliberate indifference. (Def. Mem. at 14–15.) Instead, Defendants assert, the Complaint consists of “threadbare recitals of some of the elements of such an action.” (Id. at 15.)

Defendants note that “[s]imply paraphrasing § 1983 does not meet Rule 8’s pleading requirements because it fails to satisfy the rigorous standards of culpability and causation required to state a claim for municipal liability.” (Def. Repl., ECF No. 17, 5 (quoting Wood v. Williams, 568 Fed. Appx. 100, 104 (3d Cir. 2014)).) Plaintiff, in response, argues that the Complaint specifically points to SEPTA’s use- of-force and passenger-nonpayment policies, as well as SEPTA’s alleged deliberate indifference to the proper training and supervision of officers, as encouraging the use of excessive force and thereby causing Plaintiff’s injury.

(Pl. Opp’n Mem. at 8–9.) According to Plaintiff, “allegations like those outlined above - made before a plaintiff has the opportunity to engage in discovery – are more than sufficient to assert a plausible Monell claim and withstand a motion to dismiss.” (Id. at 9.) Plaintiff cites five cases decided by this Court over the past two decades that demonstrate a willingness to allow Monell claims to proceed on generalized allegations given the difficulty of gathering details of municipal inner workings prior to discovery.

(Id. at 9–11 (citing, among others, Keahey v. Bethel Twp., Pa., No. 11-7210, 2012 WL 478936 (E.D. Pa. Feb. 15, 2012) (denying motion to dismiss Monell claim, noting that plaintiff could not

prove a pattern of constitutional violations “without a sufficient period of discovery to adduce this evidence,” and accordingly finding that “the issue of whether the Township maintained a policy that failed to properly train its police officers is still too premature for the Court to decide at this time”) and *Est. of Arrington v. Michael*, No. 11-4534, 2012 WL 398765 (E.D.

Pa. Feb. 8, 2012) (“The factual support for the allegations is thin but not altogether unusual for a case in its infancy.”)).) The question before us is whether Plaintiff’s Complaint, which asserts (i) the existence of unconstitutional policies and/or customs at SEPTA and (ii) that SEPTA failed to adequately train, supervise, and discipline its police officers, while providing virtually no facts supporting either of those assertions, is “sufficient to show that the plaintiff has a ‘plausible claim for relief.’” See *Fowler*, 578 F.3d. at 211 (quoting *Iqbal*, 556 U.S. at 679).

We find that, in its current form, it is not. Although it is true that this Court has acknowledged the difficulties facing plaintiffs in gathering facts relevant to a claim for municipal liability prior to discovery, see, e.g., *3909 Realty LLC v. City of Philadelphia*, No. 21-0030, 2021 WL 2342929, at *4 (E.D. Pa. June 8, 2021) (“[T]he Court notes that Monell liability is generally not amenable to resolution at the pleading stage, as it requires a plaintiff to plead facts outside his or her personal knowledge.”), previous cases also instruct that a plaintiff must provide some factual basis for her allegations, aside from mere conclusory statements, in order to plead a claim, see, e.g., *Godson v. City of Philadelphia*, No. 24- 6461, 2025 WL 757101, at *9–10 (E.D.

Pa. Mar. 10, 2025) (dismissing Monell claim for excessive force against the city, noting that, although the plaintiff asserted that the city had condoned a custom of excessive force against prisoners, “[plaintiff] does not specify any underlying facts that affect [plaintiff’s] claims of a policy or custom by the City that sanctioned this conduct”). “Factual allegations must be enough to raise a right to relief above the speculative level.” *Bell Atl.*

Corp. v. Twombly, 550 U.S. 544, 555 (2007). “The plausibility standard is not akin to a ‘probability requirement,’ but it asks for more than a sheer possibility that a defendant has acted unlawfully.” *Iqbal*, 556 U.S. at 678. Recently, the Third Circuit rejected a plaintiff’s argument on appeal that her Section 1983 claim, which sought municipal liability for a prison suicide based in part on a failure-to-train theory, should not have been dismissed because it would be impossible to plead the facts necessary to substantiate her claim without discovery.

See *Beers v. Cnty. of Northumberland*, No. 23-2555, 2024 WL 2874283, at *2 (3d Cir. June 7, 2024). Quoting the seminal *Iqbal* case, the court explained that even a civil rights plaintiff must provide the court with sufficient factual content from which to draw a reasonable inference that a defendant is liable. *Id.* Ultimately, the Court of Appeals affirmed the District Court’s holding that the plaintiff “failed to allege enough facts to connect the dots and thus was not entitled to additional discovery.” *Id.* Here, the only fact pointed to by Plaintiff in support of her assertions of

an existing policy, custom, and/or failure to train, supervise, and discipline, is Sergeant Maxwell's conduct upon arriving at the scene of Plaintiff's arrest.

Because Maxwell was a supervising officer, Plaintiff argues, his failure to diffuse the situation, and in fact his "escalat[ion of] the situation by introducing a taser," shows that excessive force is encouraged among SEPTA police officers. (Pl. Opp'n Mem. at 9.)

However, despite Maxwell's supervisory role, Plaintiff does not allege that Maxwell was a final policymaker, and therefore the sergeant's actions, regardless of their appropriateness, were not indicative of a municipal policy. Additionally, Plaintiff does not point to any facts indicating established custom or deliberate indifference on the part of policymakers, either of which could likely be shown at the motion-to-dismiss stage by statistics or reports of similar incidents.

Because Plaintiff fails to provide any such facts that could raise her allegations from possible to plausible, her Monell claim cannot proceed. Accordingly, it is ORDERED that Count XI is DISMISSED without prejudice. Plaintiff is granted leave to amend her complaint to reassert Count XI should facts warranting renewed consideration arise. IT IS SO ORDERED. BY THE COURT: /s/ R. Barclay Surrick R. BARCLAY SURRICK, J.