

Judge reinstates lawsuit over false arrest claim

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A federal district judge has reversed a recommendation to dismiss a Roosevelt man's lawsuit against Nassau County for false arrest in a landlord-tenant dispute that began in 2009.

County Attorney Carnell Foskey said the denial of the summary judgment will be appealed.

In her March 31 ruling, U.S. District Court Judge Margo K. Brodie in Brooklyn reversed Magistrate Judge Steven Locke's January recommendation to grant the county a total summary judgment.

Citing video evidence of the arrest, Brodie referred to a 2007 U.S. Supreme Court decision (*Scott v. Harris*) that said: "The Respondent's version of events is so utterly discredited by the record that no reasonable jury could have believed him."

Video in this case — taken by the African-American Media Network after a call from Hempstead lawyer Frederick Brewington — showed the arrest of plaintiff Michael Smith.

Smith had signed a lease and had a receipt for \$2,400 he paid to a man who said he represented the owner of the home at 79 William St. in Roosevelt.

But about two weeks later, a woman — later identified as the property manager — asked Smith to leave. He discovered he had been a scam victim and was trying to work a deal, but the property manager pushed to get him out.

Smith called police, who told the two sides it was a civil matter. A few days later, he found a door kicked in, property damaged and missing, and the locks changed. Smith filed a police report. The manager returned, then left. Police arrived and arrested Smith.

Officer Timothy Slevin testified in a deposition that Smith was arrested because he was trying to re-enter the site. But the video depicts Smith outside, on the telephone, "stating to the police officers that 'My lawyer said you're doing a wrongful eviction.'"

"Slevin responds to Plaintiff 'tell your lawyer you're under arrest,' and then handcuffs Plaintiff and directs him to the police vehicle.

"These facts and circumstances contradict the County Defendants' facts," wrote Brodie in the decision, which will send the case to trial for alleged false arrest and abuse of process.

Brewington, who represents Smith, said yesterday that the "abusive process by these detectives needs to be addressed by Nassau County as well as a jury."

Nassau spokesman Brian Nevin said he had no comment.