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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

LENIN FREUD PEREZ-TORRES, Plaintiff and Appellant, v. STATE OF CALIFORNIA et al., Defendants and Respondents.	B179327 (Los Angeles County Super. Ct. No. BC267143)

APPEAL from a judgment of the Superior Court of Los Angeles County, David A. Workman, Judge. Judgment is affirmed.

Robert Mann and Donald W. Cook for Plaintiff and Appellant.

Bill Lockyer, Attorney General, James M. Humes, Chief Assistant Attorney General, James M. Schiavenza, Senior Assistant Attorney General, Marsha S. Miller, Supervising Deputy Attorney General, Paul C. Epstein, Deputy Attorney General, for Defendants and Respondents.

This is a suit brought by Lenin Perez-Torres (plaintiff) against the State of California and certain of its parole agents, and against the United States of America and one of the employees of its Immigration and Naturalization Service (INS). Plaintiff brought the suit after he was mistakenly taken into custody by parole and INS agents and incarcerated in the Los Angeles County jail for 25 days.[1]

Plaintiff appeals from a summary judgment entered in favor of defendants Elizabeth Soos and the State of California (Soos, state, and together, defendants).[2] The trial court granted defendants' motion for summary judgment when it determined that plaintiff's claims against them are barred by the doctrine of res judicata. The court determined that defendants are in privity with the defendants in a federal case that was based on the same mistaken incarceration of plaintiff. Plaintiff had already settled claims with those federal case defendants when the defendants in the instant case moved for summary judgment.

Specifically, the trial court stated that its ruling is the result of a 2002 order that was entered in favor of plaintiff and others for the settlement, release, and dismissal of claims in a federal class action suit (Williams v. County of Los Angeles) against the

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[1] The federal government had this case removed to federal court. Thereafter, in July 2003, the federal district court granted a motion to dismiss that was filed by the State of California and two of its parole agents in their official capacities (David Chaney and Chris Kane), and remanded plaintiff's claims against them back to the Los Angeles Superior Court, but gave plaintiff leave to amend his claims against the two parole agents in their individual capacities. Plaintiff did amend his claims and the federal case against the agents proceeded but was stayed when plaintiff filed this appeal.

[2] Defendant Soos is a parole agent employed by the State in its Department of Corrections. She was added to the case as a Doe defendant.

County of Los Angeles and its sheriff's department and board of supervisors. The trial court ruled that the state is in privity with the sheriff's department of the County of Los Angeles with respect to the performance of law enforcement responsibilities and activities, and therefore the state receives the res judicata benefit of plaintiff's settlement of claims in the federal case. The court cited *Venegas v. County of Los Angeles* (2004) 32 Cal.4th 820 to support its finding of privity.

We find that while the res judicata doctrine is not applicable to this case, the immunity provisions in Government Code section 845.8 are, and on that basis we must affirm the summary judgment.

BACKGROUND OF THE CASE

1. *Plaintiff's Complaint*

Plaintiff's complaint, which was filed on January 28, 2002, alleges that on June 22, 2000, federal agents came to his home at 6:30 a.m. and arrested him on a parole violation warrant. The warrant was for someone named Lenin Torres Salgado.[3] Although plaintiff complained that he was not on parole and that he is not Lenin Torres Salgado, his complaints were to no avail and he was incarcerated in the Los Angeles County jail. While in jail, he retained an attorney whose contact with the Department of

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[3] Apparently, Lenin Torres Salgado came to this country illegally, was subsequently convicted of spousal abuse for stabbing his wife, and was then deported to Mexico after he served time in prison. Plaintiff himself was also apparently accused of spousal abuse.

Corrections caused the release of the parole hold that had been placed on him[4] and he was set free on July 17, 2000, some 25 days after his arrest. Defendant state parole agents "were responsible in some manner for the issuance of the parole hold."[5]

Plaintiff alleged causes of action under Civil Code section 52.1 (violation of his exercise or enjoyment of rights secured by the constitutions and laws of the United States and the State of California), and Civil Code section 1714 (liability for willful and negligent acts). He also alleged false imprisonment.

2. *Plaintiff's Federal Suit*

After he was released from jail, and prior to filing the instant case, plaintiff pursued claims against Los Angeles County, the county's board of supervisors and the county's sheriff's department when he joined the abovementioned federal class action suit that was ultimately settled by an order for settlement, release and dismissal of claims. Such order was entered by the federal district court in December 2002. Under that order, plaintiff received $8,500.[6]

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[4] "[P]arole agents are authorized to issue parole holds for the purpose of detaining a parolee prior to a parole revocation hearing." (*Swift v. Department of Corrections* (2004) 116 Cal.App.4th 1365, 1371.)

[5] Apparently someone at the State Department of Corrections associated plaintiff's Criminal Identification and Information number with Salgado and drew the conclusion that the two men might be one and the same person.

[6] In his response to defendants' separate statement of undisputed material facts in the instant case, plaintiff stated that the purpose of the federal class suit "was to obtain redress from the entity responsible for wrongful incarcerations, i.e., the County of Los Angeles." He also stated that the purpose of the federal suit "was to compensate persons who had been wrongfully held in custody as a result of the customs, practices, and policies of the County of Los Angeles."

3. *Defendants' Motion for Summary Judgment*

Defendants in this case filed a motion for summary judgment or alternatively summary adjudication of issues. Summary judgment was sought on the basis that plaintiff's monetary recovery of $8,500, by way of the order for settlement, release and dismissal of claims in the federal class action suit, acts as a res judicata bar to his recovery in this suit.

Noting that the federal settlement order states it encompassed, among others, the plaintiffs in the federal class suit who "were arrested based on a warrant who were not, in fact, the person for whom the warrant was issued, and were purportedly held without a timely determination of whether s/he was the correct arrestee, even if [the Los Angeles County Sheriff's Department] personnel were notified that the warrant was not for him or her," defendants argued that plaintiff no longer has a cause of action against them for his arrest and confinement in jail. Defendants argued that they benefit from the settlement of plaintiff's claims in the federal class suit because they are in privity with the county and the county's sheriff's department. They asserted that when plaintiff sued the county and the sheriff's department, he was suing the state and thus he cannot relitigate his claims against defendants.

The trial court agreed that the state is in privity with the county and its sheriff's department and therefore the doctrine of res judicata is applicable to this case, and the

court granted defendants' motion for summary judgment. Judgment was signed and filed on October 15, 2004, and thereafter plaintiff filed this timely appeal.[7]

DISCUSSION

1. *The Los Angeles County Sheriff Acted As An Agent Of The State When His Department Determined If And When To Release Plaintiff*

As noted, the trial court cited *Venegas* v. *County of Los Angeles*, *supra*, 32 Cal.4th 820 (*Venegas*), to support its holding that the doctrine of res judicata applies here because of privity between defendants in the instant case and defendants in the prior federal case, and such doctrine precludes the liability of the state and Soos to plaintiff. In *Venegas*, the court addressed the question whether a county sheriff acts on behalf of the state or on behalf of the county when the sheriff is acting in a law enforcement role such as conducting a criminal investigation, including detaining suspects and searching their homes and vehicles.

Based on analyses in prior California cases, the *Venegas* court held that the sheriff is acting on behalf of the state on such occasions. The question presented itself in *Venegas* and the prior cases because the plaintiffs sued under the provisions of U.S.C. section 1983, alleging defendants in those cases violated their civil rights. Section 1983 provides for the liability of "*every person*" (italics added), who, acting under color of state law, deprives another of rights, privileges or immunities secured by the federal constitution and laws. In addressing claims under section 1983, the question necessarily

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[7] A motion for summary adjudication of issues that plaintiff filed, and that was set to be heard a few days after the trial court granted defendants' motion for summary judgment, was taken off calendar by the trial court when it granted defendants' motion.

arises whether the defendant is a "person" for purposes of that statute. Since states and state officers sued in their official capacities cannot be liable under section 1983 because of the 11th amendment and the doctrine of sovereign immunity, they are not considered persons for purposes of that statute (*Venegas, supra*, 32 Cal.4th at p. 829.)[8]

Two section 1983 cases decided prior to *Venegas* held that the local officer defendants in those cases were agents of the state. They are *County of Los Angeles v. Superior Court* (1998) 68 Cal.App.4th 1166, 1174 (real party in interest Rebecca Peters [*Peters*]), and *Pitts v. County of Kern* (1998) 17 Cal.4th 340, 345, 366 (*Pitts*). *Peters* held that a county sheriff acts as a state official, that is, acts on behalf of the State, not the county, when she or he sets policies concerning the release of people from a county jail.[9] *Pitts* held that a district attorney is acting on behalf of the state, not a county, when investigating and prosecuting crime and when training and developing policy for prosecutorial staff. Here, the trial court's purpose in citing *Venegas* was not to address an issue whether the state and Soos are persons under section 1983, but rather to simply

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[8] In contrast, cities, counties and local officers sued in their official capacity are persons for purposes of section 1983 and can be held liable in some circumstances. (*Venegas*, *supra*, 32 Cal.4th at p. 829.)

[9] Accusations made in *Peters* are similar to those made by plaintiff in his initial federal case. In *Peters*, the plaintiff alleged that despite her having posted bail, the sheriff of the County of Los Angeles nevertheless continued to detain her by purportedly relying on a warrant that the sheriff and the county both knew or reasonably should have known did not apply to her.

demonstrate that when the sheriff detained plaintiff in jail, the sheriff was acting as on behalf of the state, not the county; he was acting as a state official.[10]

2. *Res Judicata Does Not Apply In This Case*

At the hearing on defendants' motion for summary judgment, the trial court cited both *Venegas* and *Zapata v. Department of Motor Vehicles* (1991) 2 Cal.App.4th, 108 (*Zapata*) to support its determination that res judicata applies to this case to preclude plaintiff's going forward with the suit. In *Zapata*, the court applied the doctrine of collateral estoppel and held that because a trial court in a hearing to suppress evidence in a driving under the influence case had previously determined that the arrest of the defendant-moving party was without probable cause, the Department of Motor Vehicles was collaterally estopped from making a contrary finding at its hearing to determine whether the driver's driving privilege should be revoked. The reviewing court determined there was privity between the district attorney who represented the People at

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[10] We reject plaintiff's contentions that *Venegas* was decided in error and that the holding in *Streit v. County of Los Angeles* (9th Cir. 2001) 236 F.3d 552 (wherein the federal court ruled that the sheriff's department acts as a county agent in administering the county jail) is correct and must be followed. That contention is based on plaintiff's *partial* use of a statement in *Gamble v. General Foods Corp*. (1991) 229 Cal.App.3d 893. Plaintiff recites the following language from *Gamble*: "[A] federal court judgment has the same effect in California courts as it would in a federal court." (*Id*. at p. 899.) The *Gamble* court's statement relates to the issue of the application of the doctrine of res judicata, not the question whether the county sheriff acts as an agent for the county or the state when administering jail policies. Thus, after it made the statement which we just quoted, the *Gamble* court went on to say: "That is, once a federal order or judgment is rendered, as for instance in district court, that judgment is final for purposes of res judicata until it is reversed on appeal or set aside or modified in the court rendering the order or judgment."

the hearing to suppress evidence and the Department of Motor Vehicles, because both were acting as agents of the State and represented the State in the two hearings.

While *Zapata* addressed the applicability of the doctrine of collateral estoppel, here the trial court found that the broader doctrine of res judicata applies to this case. "Res judicata operates as a bar to maintaining a second suit between the same parties or parties in privity with them *on the same cause of action*. . . . Res judicata precludes piecemeal litigation by splitting a single cause of action or relitigation of the same cause of action on a different legal theory or for different relief. . . . [¶] . . . California courts . . . follow the primary rights theory of Pomeroy: a cause of action consists of 1) a primary right possessed by the plaintiff, 2) a corresponding duty imposed upon the defendant, and 3) a wrong done by the defendant which is a breach of such primary right and duty. . . . [When the prior suit was a federal case, u]nder California law, res judicata effect is determined on the basis of whether the prior federal judgment is based on the same primary right as the state action. . . . If there is but one primary right *and one wrong done involving that right*, the plaintiff has but a single cause of action, no matter how many kinds of relief or theories are relied upon. . . ." (*Lucas v. County of Los Angeles* (1996) 47 Cal.App.4th 277, 285-286, italics added.) Applying that test here, we find that the finality of plaintiff's first federal case does not support application of the doctrine of res judicata here.

The primary right at issue in the two cases relevant to this appeal—plaintiff's initial federal suit and the instant suit—is the right to be free from false and unreasonable detention; the right to be free from an unwarranted deprivation of freedom of movement.

As noted above, the settlement order in the initial federal case described plaintiff as being one of the class members who "were arrested based on a warrant who were not, in fact, the person for whom the warrant was issued, and were purportedly held without a timely determination of whether s/he was the correct arrestee, even if [the Los Angeles County Sheriff's Department] personnel were notified that the warrant was not for him or her." Although that description lumps together both the asserted unlawfulness of the arrest and the asserted unlawfulness of the amount of time plaintiff was incarcerated, in reality plaintiff's saga involved two separate alleged violations of his primary right: (1) his arrest and incarceration, and (2) his continued confinement past the time when he asserts he could and should have been released. Thus, plaintiff asserts that the federal case litigated a cause of action based on the county's failure to *timely determine* whether the correct person was arrested (that is, a failure to *timely release* inmates), whereas the instant case litigates a *false arrest and resulting confinement* which stemmed from the state's wrongful issuance of parole holds.

Two distinct, separate wrongs against one primary right results in two causes of action, not one. (*Branson v. Sun-Diamond Growers* (1994) 24 Cal.App.4th 327, 341-342; *Gamble v. General Foods Corp*., *supra*, 229 Cal.App.3d 893, 899.)[11] Thus

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[11] Attorney Robert Mann, who is plaintiff's attorney in the instant case and who also represented class members in the initial federal case, stated in a declaration in support of plaintiff's opposition to defendants' motion for summary judgment that (1) the federal case only involved two groups of plaintiffs—those wrongfully *held* in custody because of the county's alleged wrongful practices, policies and customs in *releasing people from jail*, and those who were wrongfully subjected to a visual body cavity search; (2) the federal case did not challenge the lawfulness of the arrests preceding *the wrongful extended holding in custody*; and (3) the theory of the plaintiffs who were arrested by

here, if the federal case had resulted in a judgment for the county based on a finding that the county did not untimely release plaintiff, that would not constitute a finding that plaintiff was not unlawfully arrested, nor an exoneration of the state for its part in plaintiff's arrest. Moreover, the fact that the county was acting as an agent for the state when it determined when to release plaintiff (*Venegas*, *supra*, 32 Cal.4th at p. 839; *Peters*, *supra*, 68 Cal.App.4th at p. 1174 et seq.) does not negate the fact that two separate wrongs invaded plaintiff's primary right. Because res judicata is applied in a second suit *on the same cause of action*, and because here there are alleged two separate wrongs against plaintiff's primary right, resulting in two causes of action, res judicata is not applicable to preclude plaintiff from pursuing this case.

3. *Defendants Are Immune From Liability To Plaintiff In This Suit*

a. *Introduction*

In reviewing orders and judgments, we do not rely on the trial court's analysis to determine whether the order or judgment should be affirmed. Rather, we affirm it if it is

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means of wrongful warrants was that because such people were being *held* pursuant to a warrant, the County "had an obligation to utilize readily available resources (fingerprints) to determine whether the person in custody was the person actually wanted on the warrant," and to promptly release them if it determined that the wrong person was being held.

The class definitions in the federal settlement order break down the "wrongfully held in custody" plaintiffs into two groups. One is the class of plaintiffs who asserted they were wrongfully arrested. The settlement order describes them as "[p]eople who were improperly held in custody on a warrant for another person" and calls that class the "wrong warrant class." The second is the "overdetention class," which was composed of "[p]eople who were not subject to a hold and who were not timely released from jail," (such as people for whom there was no finding of probable cause by a judicial officer for their arrest and who were released in an untimely manner). Plaintiff's attorney Mr. Mann states that the overwhelming majority of plaintiffs in the federal suit fall into the overdetention class.

correct on any applicable theory of law. (*D'Amico v. Board of Medical Examiners* (1974) 11 Cal.3d 1, 18-19, disapproved on another point in *Woodland Hills Residents Assn., Inc. v. City Council* (1979) 23 Cal.3d 917, 944.) Prior to moving for summary judgment, defendants unsuccessfully demurred to the complaint, contending they are immune from liability for all three of plaintiff's causes of action, and citing Government Code sections 845.8 and 821.6. Now on appeal, defendants assert that even if we determine the doctrine of res judicata is not applicable to preclude continued prosecution of the case against them, the summary judgment should nevertheless be affirmed on the basis of these asserted immunities.

Generally if a litigant disputes the validity of a non-appealable ruling of the trial court (such as the order overruling defendants' demurrer in the instant case), the litigant must appeal or cross-appeal from the judgment to have the validity of the ruling examined. Nevertheless, in keeping with the requirement that an error be prejudicial (that is, result in a miscarriage of justice), before it causes reversal of a judgment (Cal. Const., art. VI, § 13; *Soule v. General Motors Corp*. (1994) 8 Cal.4th 548, 574), Code of Civil Procedure section 906 provides that a respondent may request review of such rulings, even though he or she did not file a cross-appeal, "for the purpose of determining whether or not the appellant was prejudiced by the error or errors upon which he relies for reversal or modification of the judgment from which the appeal is taken." Here, if we determine that defendants' claim of statutory immunity under Government Code sections 845.8 or 821.6 is valid, then plaintiff is not prejudiced by the trial court's finding that res judicata requires a judgment in defendants' favor.

b. *Government Code Section 845.8 Provides Defendants With Immunity In This Suit*

Government Code section 845.8 provides, in relevant part, that public entities and public employees are not liable for "[a]ny injury resulting from determining whether to parole or release a prisoner or from determining the terms and conditions of his parole or release or from determining whether to revoke his parole or release." Here, the parolee at issue is Mr. Salgado, the person the state parole agents and INS agent thought they were taking into custody and incarcerating when plaintiff was arrested. Appellant is the person alleging injury from a decision to revoke Salgado's parole.

In *Swift v. Department of Corrections*, *supra*, 116 Cal.App.4th 1365, the court addressed the sufficiency of a complaint to state a cause of action against the Department of Corrections in a suit brought by a prisoner who had been paroled. The plaintiff's complaint alleged negligent supervision, negligence per se, negligence, false arrest and false imprisonment, all stemming from the Department's issuance of a parole hold on the plaintiff and his arrest, which were later determined, by an administrative law judge at plaintiff's parole revocation hearing, to have been unwarranted because the plaintiff's parole had ended three and one-half years prior to this arrest. Noting that the factual allegations in the plaintiff's complaint related to the parole revocation process and that the actions taken by the Department's agents were taken in their performance of their parole officer duties, the *Swift* court determined that section 845.8 rendered the Department immune from each of the plaintiff's five causes of action.

In the instant case, evidence presented in connection with plaintiff's motion for summary adjudication of issues shows he was arrested in April 2000 for driving under the influence, and when the police made inquiries into his criminal record, they were notified by the Department of Justice that plaintiff could be Mr. Salgado, who had been convicted of spousal abuse (stabbing his wife). Based on that information, and on (1) an interview with plaintiff at his home on June 22, 2000 that was conducted by INS agents and by defendant parole officer Kane, at which time plaintiff admitted in the interview that he had recently been arrested for driving under the influence and had previously been arrested for spousal abuse, and (2) the fact that he had a tattoo on his body that said "Lenin," plaintiff was mistaken for Mr. Salgado. Plaintiff was arrested by the INS officers and driven to the county jail, where custody was transferred to Kane and Kane booked plaintiff into the jail.[12] A parole hold was placed on plaintiff. At that point in time, plaintiff told Kane he had the wrong person, and Kane looked at his file and observed a five-inch height difference between plaintiff and Salgado as well as a weight difference. Kane took pictures of plaintiff and later that same day showed them to parole agents Chaney and Soos at the parole office. Chaney spoke with INS agent Vaughn who assured him that plaintiff was Salgado. However, after Chaney spoke with plaintiff's attorney, he had the fingerprints which were obtained from plaintiff at the time of his driving under the influence arrest compared with the fingerprints obtained from Salgado

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[12] The fact that plaintiff was arrested by the INS agent rather than by a state parole officer has no bearing in this appeal, given that it was the state's decision to move ahead with Salgado's parole revocation that put the parole agent at the plaintiff's home with the INS agent.

when Salgado was in prison, and he was told that the prints did not match. The parole hold was then removed. On July 17, the INS instructed personnel at the jail to release the INS hold on plaintiff.

Based on these facts, defendants validly contend that section 845.8 applies here to provide them with immunity from liability to plaintiff because plaintiff's being arrested and booked into jail were the result of a decision to revoke Salgado's parole. We agree with defendants that it makes no difference that the revocation decision concerned Salgado's parole rather than plaintiff's parole status (plaintiff apparently has never been on parole). *Plaintiff is in the same situation as other innocent third parties who are harmed by a decision regarding someone else's parole.* For example, in *Fleming v. State of California* (1995) 34 Cal.App.4th 1378, a woman was kidnapped, raped, tortured and then killed by a parolee who had violated his parole prior to committing those acts. The plaintiffs (members of the victim's family and the personal representative of the estate of the victim) sued the State and the parole officer. The *Fleming* court held the defendants were immune from liability under section 845.8's provisions regarding determinations whether to revoke parole. While the manner in which the plaintiff in the instant case was affected by defendants' decisions regarding Salgado's parole status is out of the ordinary (arrest and incarceration rather than physical harm), this variance does not take his case out of the provisions of section 845.8.

In *Swift*, the court reviewed published section 845.8 cases and observed that some of the cases in which section 845.8 immunity has been found include those where (1) the parolee asserted that the parole officer falsely reported parole violations and had him

imprisoned, (2) the parolee caused injuries to others due to the negligent *supervision* of him while he was on parole (even though section 845.8 does not specifically mention supervision of parolees), (3) plaintiffs' injuries were caused by the ministerial implementation of discretionary decisions about parole, and (4) plaintiffs' injuries were caused by discretionary decisions about parole. Clearly section 845.8 is broadly interpreted. We find its provisions cover the claims of the plaintiff in this case. He was the victim of events occurring when defendants took up the cause of Salgado's parole revocation.[13]

Plaintiff's reliance on cases not involving section 845.8 immunity does nothing to further his position that section 845.8 is not applicable here. Nor does his assertion that police officers could always avoid liability for false arrest by "tak[ing] along a parole agent on any arrest." That assertion is far fetched, and it addresses a situation which could be remedied by legislation in the unlikely event it were to occur. Further, his citation to Government Code *section 820.4* to support his position that defendants are not immune *under section 845.8* for false arrest is (1) not supported by any citation to case law, and (2) not supported by the provisions in section 820.4. Section 820.4 states: "A public employee is not liable for his act or omission, exercising due care, in the execution or enforcement of any law. Nothing *in this section* exonerates a public employee from liability for false arrest or false imprisonment." (Italics added.) While

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[13] By our holding, we do not decide that a parole agent who knowingly arrests the wrong parolee is covered by section 845.8's grant of immunity for his intentional wrongful conduct.

nothing in section 820.4 provides such immunity, the provisions of section 845.8 do. (*Swift* v. *Department of Corrections, supra,* 116 Cal.App.4th at p. 1371.)[14]

3. *The Hearing On Plaintiff's Motion For Summary Adjudication of Issues Was Properly Taken Off Calendar By The Trial Court*

As noted in footnote seven, plaintiff had a motion for summary adjudication pending when defendants' motion for summary judgment was heard, and the trial court took plaintiff's motion off calendar because it determined that defendants were entitled to judgment in their favor. The issue which plaintiff sought to have adjudicated in his favor involves one of defendants' 39 affirmative defenses. That defense states: "Under Penal Code section 847(a), defendants have no liability to plaintiff because defendants acted reasonably in taking plaintiff into custody."

Plaintiff's motion for summary adjudication of issues asserted that as a matter of law, defendants did not act reasonably in taking him into custody. Because we are affirming the summary judgment in favor of defendants, we have no need to address this issue, and we find that plaintiff's motion was properly placed off calendar by the trial court.

DISPOSITION

The summary judgment from which plaintiff has appealed is affirmed. Costs on appeal to defendants.

CROSKEY, J.

WE CONCUR: KLEIN, P.J. KITCHING, J.

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[14] Because we have concluded that section 845.8 provides defendants with immunity from liability to plaintiff, we need not determine whether other statutes also provide immunity to defendants.

CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION THREE

LENIN FREUD PEREZ-TORRES, Plaintiff and Appellant, v. STATE OF CALIFORNIA, Defendants and Respondents.	B179327 (Los Angeles County Super. Ct. No. BC267143) ORDER DIRECTING PUBLICATION

THE COURT:

The opinion in the above-entitled matter filed on August 3, 2005, was not certified for publication in the Official Reports. For good cause it now appears that the opinion should be published in the Official Reports and it is so ordered.