NOT FOR PUBLICATION

FILED

OCT 30 2026

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JIMMY KIT LEE, Plaintiff - Appellant, v. CITY OF SAN JOSE; MICHAEL ROBERSON, Defendants - Appellees.	No. 25-2372 D.C. No. 5:23-cv-00778-NW MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Noel Wise, District Judge, Presiding

Submitted October 27, 2026**

Before: SILVERMAN, FORREST, and VANDYKE, Circuit Judges.

Jimmy Kit Lee appeals pro se from the district court's summary judgment in his 42 U.S.C § 1983 action alleging federal and state law claims connected to Lee's arrest. We have jurisdiction under 28 U.S.C. § 1291. We review de novo.

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Blankenhorn v. City of Orange, 485 F.3d 463, 470 (9th Cir. 2007). We affirm.

The district court properly granted summary judgment on Lee's claims for false arrest and malicious prosecution because Lee failed to raise a genuine dispute of material fact as to whether defendants lacked probable cause to arrest him for making criminal threats and assault with a deadly weapon other than a firearm. *See Vanegas v. City of Pasadena*, 46 F.4th 1159, 1164 (9th Cir. 2022) ("Probable cause to arrest exists when there is a fair probability or substantial chance of criminal activity by the arrestee based on the totality of the circumstances known to the officers at the time of arrest." (citation and internal quotation marks omitted)); *Yousefian v. City of Glendale*, 779 F.3d 1010, 1014 (9th Cir. 2015) (the presence of probable cause defeats § 1983 false arrest and malicious prosecution claims); *Levin v. United Air Lines, Inc.*, 70 Cal. Rptr. 3d 535, 549-50 (Ct. App. 2008) (probable cause defeats a false arrest claim under California law); *see also* Cal. Penal Code §§ 422(a) (making criminal threats) and 245(a)(1) (assault with a deadly weapon other than a firearm).

The district court properly dismissed Lee's claim under *Brady v. Maryland*, 373 U.S. 83 (1963), because Lee failed to allege facts sufficient to state any plausible claim. *See Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (to avoid dismissal, "a complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face" (citation and internal quotation

marks omitted)); *Strickler v. Greene*, 527 U.S. 263, 281-82 (1999) (setting forth requirements to state a *Brady* violation).

AFFIRMED.