

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT

---

No. 08-13867

---

FILED U.S. COURT OF APPEALS ELEVENTH CIRCUIT FEB 03, 2009 THOMAS K. KAHN CLERK
---

D. C. Docket No. 06-01496 CV-LSC-J

KELLY SUE SANFORD,

Plaintiff-Appellant,

versus

JASPER, ALABAMA, CITY OF,  
MITCHELL C. JONES, et al.,

Defendants-Appellees.

---

Appeal from the United States District Court  
for the Northern District of Alabama

---

**(February 3, 2009)**

Before MARCUS, ANDERSON and CUDAHY,\* Circuit Judges.

PER CURIAM:

---

\*Honorable Richard D. Cudahy, United States Circuit Judge for the Seventh Circuit, sitting by designation.

After oral argument and careful consideration, we conclude that the judgment of the district court is due to be affirmed. We readily conclude that the district court did not err in holding that Officer Jones had arguable probable cause to arrest plaintiff for public intoxication under Alabama law. With respect to the endangerment factor, the officer reasonably believed that plaintiff had already made a decision which endangered the public, as well as herself, when she permitted Howell to drive her car while intoxicated. After Howell was arrested, the officer also reasonably believed under all the circumstances that plaintiff was too intoxicated to drive, and that she would have endangered herself if the officer had let her walk away from the scene along the public road. Finally, we conclude that the district court did not abuse its discretion in declining to entertain the new legal theory raised by plaintiff for the first time in a motion to alter or amend the district court's summary judgment order.

AFFIRMED.<sup>1</sup>

---

<sup>1</sup> Plaintiff's argument with respect to her state law claim, and other arguments, are rejected without need for further discussion.