

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT

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No. 14-11896  
Non-Argument Calendar

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D.C. Docket No. 1:09-cv-00056-WLS

PATRICIA BRIDGES TATUM,  
Individually and as Next of Kin and  
Administrator of the Estate of Eddie C.  
Bridges, Deceased,

Plaintiff,

TIMOTHY EUGENE BRIDGES,  
Individually and as Next of Kin, and  
Administrator of the Estate of Eddie C.  
Bridges, Deceased,

Plaintiff-Appellant,

versus

AMERICUS GEORGIA,  
The City of,  
AMERICUS GEORGIA,  
The City of,  
d.b.a. Americus Police Department, et al.

Defendants-Appellees,

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Appeal from the United States District Court  
for the Middle District of Georgia

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(September 18, 2014)

Before HULL, MARCUS, and EDMONDSON, Circuit Judges.

PER CURIAM:

Plaintiff (as next of kin and administrator of Eddie Bridges's estate) appeals the district court's grant of summary judgment in favor of Defendants Officer Michael Middleton, Police Chief James Green, and the City of Americus, Georgia ("City") in Plaintiff's civil action under 42 U.S.C. § 1983 and state law.<sup>1</sup> Plaintiff's complaint arises from a physical altercation between Bridges and Officer Middleton, which resulted in Bridges's arrest. The order granting summary judgment is a full and detailed order. No reversible error has been shown; we affirm the judgment.

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<sup>1</sup> Plaintiff does not appeal the district court's judgment in favor of the City of Americus Police Department.

The facts, viewed in the light most favorable to Plaintiff, are as follows.<sup>2</sup> On the day of the incident, Chief Green's office received a call from an unidentified person complaining about people loitering at a shopping center, drinking alcohol, and asking customers for money. The shopping center had a history of complaints from store merchants about similar behavior.

When Officer Middleton arrived at the shopping center to investigate the complaint, he saw Bridges standing on the sidewalk in front of a store and drinking from a large can. Although Officer Middleton saw other people in the parking lot, Bridges was the only person he saw standing without an apparent purpose and holding a drink.

When Officer Middleton asked Bridges whether he was shopping or just hanging out, Bridges responded that "he was doing what he wanted to do." Officer Middleton told Bridges that he could not hang out in that area and that he needed to leave. Bridges refused. Officer Middleton instructed Bridges again to leave. When Bridges refused a second time, Officer Middleton took out his handcuffs and prepared to arrest Bridges for "non-compliance." Officer Middleton told Bridges that he was under arrest.

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<sup>2</sup> We review de novo the district court's grant of summary judgment, viewing the evidence and all reasonable factual inferences in the light most favorable to the nonmoving party. Skop v. City of Atlanta, 485 F.3d 130, 1136 (11th Cir. 2007).

Before Officer Middleton could handcuff Bridges, however, Bridges hit Officer Middleton in the face with his drink can. Officer Middleton then took Bridges down on the ground where the two men struggled. During the struggle, Officer Middleton's radio was disconnected from his uniform; and his shirt collar was torn. At some point in the struggle, Bridges -- who was subject to a seizure disorder -- allegedly told Officer Middleton that Bridges was about to have a seizure; still, Bridges continued resisting Officer Middleton's attempts to subdue him.<sup>3</sup> Officer Middleton then with his fist punched Bridges in the face two or three times. After that, Bridges stopped resisting. Officer Middleton rolled Bridges onto his stomach and lay on Bridges's back until assistance arrived.

When other officers responded to the scene, the officers handcuffed Bridges. Because Bridges's eye was swelling and bleeding, the officers called EMS; Bridges was taken to the hospital. Bridges underwent surgery to reduce the swelling in his eye and was released several hours later.<sup>4</sup>

Plaintiff, as next of kin and administrator of Bridges's estate, filed this section 1983 civil suit. Briefly stated, the district court construed Plaintiff's complaint as purporting to assert these claims: (1) Officer Middleton falsely

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<sup>3</sup> Nothing evidences that Bridges in fact had a seizure during his encounter with Officer Middleton.

<sup>4</sup> Bridges died less than two months after this incident. Plaintiff contends that the injuries Bridges sustained as a result of Officer Middleton's punches contributed to Bridges's death. Nothing in the record supports this theory. The autopsy report lists Bridges's cause of death as a seizure disorder complicated by hypertensive heart disease.

arrested and falsely imprisoned Bridges, in violation of the Fourth Amendment; (2) Officer Middleton used excessive force against Bridges, in violation of the Fourth Amendment; (3) Chief Green violated the Fourth Amendment by participating in Officer Middleton's violations; (4) the City and Chief Green failed to train Officer Middleton; (5) the City violated the Americans with Disabilities Act ("ADA"); (6) the City's loitering ordinance is unconstitutional; and (7) various violations of state law.

The district court correctly granted Defendants' motions for summary judgment. The court determined that no Fourth Amendment or ADA violations occurred. The district court also concluded that Plaintiff lacked standing to challenge the City's loitering ordinance. After granting summary judgment on Plaintiff's federal claims, the district court declined to exercise supplemental jurisdiction over Plaintiff's state law claims.

False Arrest and False Imprisonment Claims:

"[A]n officer may, consistent with the Fourth Amendment, conduct a brief, investigatory stop when the officer has a reasonable, articulable suspicion that criminal activity is afoot." Illinois v. Wardlow, 120 S.Ct. 673, 675 (2000).

"Reasonable suspicion is determined from the totality of circumstances and

collective knowledge of the officers.” United States v. Nunez, 45 F.3d 1223, 1226 (11th Cir. 2006).

Probable cause to arrest exists “when the facts and circumstances within the officer’s knowledge, of which he or she has reasonably trustworthy information, would cause a prudent person to believe, under the circumstances shown, that the suspect has committed, is committing, or is about to commit an offense.”

McCormick v. City of Fort Lauderdale, 333 F.3d 1234, 1243 (11th Cir. 2003) (emphasis omitted).

Drawing all inferences and viewing the evidence in the light most favorable to Plaintiff, Officer Middleton had reasonable suspicion, when he first approached Bridges, to believe that Bridges was committing the offense of criminal trespass.<sup>5</sup> The record shows that Officer Middleton knew that a complaint had been received about people loitering, drinking alcohol, and harassing customers at a shopping center, and that the shopping center had a history of similar complaints from store merchants. When Officer Middleton arrived at the shopping center, he observed Bridges standing outside a store, drinking from a can. Given the totality of these circumstances -- in addition to Bridges’s evasive answer to Officer Middleton’s investigatory questions -- Officer Middleton could have suspected reasonably that

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<sup>5</sup> Under Georgia law, “[a] person commits the offense of criminal trespass when he . . . knowingly and without authority . . . [r]emains upon the land or premises of another person . . . after receiving notice from the owner, rightful occupant, or, upon proper identification, an authorized representative of the owner or rightful occupant to depart.” O.C.G.A. § 16-7-21(b)(3).

Bridges was not authorized to remain on the property and should be ordered to leave. See Wardlow, 120 S.Ct. at 676 (evidence of suspect's evasive behavior and presence in a "high crime area" are pertinent to determining whether reasonable suspicion exists). And Bridges was ordered to leave.

Bridges's refusal to comply with Officer Middleton's repeated orders to leave the premises then gave rise to probable cause to arrest Bridges for obstruction under Georgia law.<sup>6</sup> See Draper v. Reynolds, 369 F.3d 1270, 1276-77 (11th Cir. 2004) ("ample probable cause" existed to arrest defendant for misdemeanor obstruction when he refused to comply with officer's reasonable instructions and acted confrontationally); Wilcox v. State, 674 S.E.2d 108, 110 (Ga. Ct. App. 2009) ("Argument, flight, stubborn obstinance, and lying are all examples of conduct that may satisfy the obstruction element.").

Given the circumstances, we conclude, as a matter of law, that no violation of Bridges's constitutional rights occurred; Officer Middleton and Chief Green are entitled to summary judgment on Plaintiff's false arrest and false imprisonment claims.<sup>7</sup>

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<sup>6</sup> "[A] person who knowingly and willfully obstructs or hinders any law enforcement officer in the lawful discharge of his official duties is guilty of a misdemeanor." O.C.G.A. § 16-10-24.

<sup>7</sup> We reject Plaintiff's reliance on Kingsland v. City of Miami, 382 F.3d 1220 (11th Cir. 2004); it is too different from this case: for example, (unlike in Kingsland) nothing in this record evidences that Officer Middleton "fabricated [evidence] in an effort to manufacture probable cause," ignored information within his knowledge, or failed to conduct a reasonable investigation.

Excessive Force Claim:

In determining whether the force used to effect a particular seizure was reasonable for purposes of the Fourth Amendment, we consider “the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight.” Graham v. Connor, 109 S.Ct. 1865, 1872 (1989) (noting that “the right to make an arrest or investigatory stop necessarily carries with it the right to use some degree of physical coercion or threat thereof to effect it.”). In effecting an arrest, officers are permitted under the Fourth Amendment to use a level of force that is “necessary in the situation at hand.” Jean-Baptiste v. Gutierrez, 627 F.3d 816, 821 (11th Cir. 2010).

We judge the reasonableness of the force used based on “the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight.” Graham, 109 S.Ct. at 1872. And we must take into account “that police officers are often forced to make split-second judgments -- in circumstances that are tense, uncertain, and rapidly evolving -- about the amount of force that is necessary in a particular situation.” Id.



Given the facts and circumstances of this case, the force used by Officer Middleton was not excessive and constituted no Fourth Amendment violation. The record shows that, before Officer Middleton applied any force, Bridges first struck Officer Middleton in the face with a drink can. Bridges then resisted actively Officer Middleton's attempts to detain Bridges, including ripping the officer's shirt. An objective reasonable officer in this situation could have concluded that some amount of physical force was necessary to subdue Bridges, to effectuate the arrest, and to prevent further injury to the officer. And the amount of force used -- two or three punches with a hand to the face -- was reasonable and proportionate for Bridges's level of resistance. The district court determined correctly that Officer Middleton and Chief Green were entitled to judgment as a matter of law.<sup>8</sup>

Remaining Claims:

Because we have determined that Bridges suffered no constitutional injury, Plaintiff's claims against the City and against Chief Green in his official capacity

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<sup>8</sup> Because we have determined that no Fourth Amendment violation occurred in this case, we necessarily conclude that Defendants violated no clearly established constitutional right. Thus, even to the extent that a constitutional violation in fact occurred (which we reject), Officer Middleton and Chief Green would still be entitled to qualified immunity from Plaintiff's claims against them in their individual capacities for false arrest, false imprisonment, and use of excessive force. See Vinyard v. Wilson, 311 F.3d 1340, 1346 (11th Cir. 2002) (government officials acting within the scope of their discretionary authority are immune from individual civil liability if the officials' conduct violates no "clearly established statutory or constitutional rights of which a reasonable person would have known.").

for supervisory liability and for failure to train fail as a matter of law. See Rooney v. Watson, 101 F.3d 1378, 1381 (11th Cir. 1996) (“a municipality may be held liable under section 1983 for inadequate training only after determining that the plaintiff has suffered a constitutional deprivation as a result of the municipal employee’s conduct”); Vineyard v. Cnty. of Murray, 990 F.2d 1207, 1211 (11th Cir. 1993) (“Only when it is clear that a violation of specific rights has occurred can the question of § 1983 municipal liability for the injury arise.”).

About Plaintiff’s ADA claim, nothing evidences that Officer Middleton was in fact aware of Bridges’s seizure disorder before the pertinent altercation started. Besides, the assumed facts do not show that Bridges was discriminated against “by reason of [his] disability”: Plaintiff’s ADA claim must fail. See 42 U.S.C. § 12132 (“no qualified individual with a disability shall, by reason by such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.”).

The district court decided correctly that Plaintiff lacks standing to challenge the City’s loitering ordinance. To establish standing, Plaintiff must “provide evidence of an injury in fact, causation and redressibility.” Dermer v. Miami-Dade Cnty., 599 F.3d 1217, 1220 (11th Cir. 2010). Even if we assume -- without deciding -- that Bridges suffered an injury in fact as a result of Defendants’

enforcement of the loitering ordinance, Plaintiff has not shown that the alleged injury would be redressed by declaring the ordinance unconstitutional. Bridges was not actually charged with loitering and faces no threat of future arrest for loitering. And, because Defendants had a duty “to enforce laws until and unless they are declared unconstitutional,” a favorable ruling would not render Defendants liable for attempting to enforce the loitering ordinance. See Cooper v. Dillon, 403 F.3d 1208, 1220 (11th Cir. 2005).

Because the district court dismissed properly each of Plaintiff’s federal claims, it abused no discretion in declining to exercise supplemental jurisdiction over Plaintiff’s state law claims. See Raney v. Allstate Ins. Co., 370 F.3d 1086, 1089 (11th Cir. 2004) (“We have encouraged district courts to dismiss any remaining state claims when . . . the federal claims have been dismissed prior to trial.”).

AFFIRMED.