

NOT FOR PUBLICATION

In the
United States Court of Appeals
For the Eleventh Circuit

No. 25-11639

KIRK MICHAEL FIELDS,

Plaintiff-Appellee,

versus

GWINNETT COUNTY, et al.,

Defendants,

KYLE HOWSE,
ARIEL STEWART,
WAYNE JOHNSON,
ROINELL LEWIS,
CHRISTIAN D'ALLAIRD,
KAYELYN LEWIS,

Defendants-Appellants.

Appeal from the United States District Court
for the Northern District of Georgia
D.C. Docket No. 1:22-cv-03684-LMM-JKL

Before JORDAN, ROSENBAUM, and LAGOA, Circuit Judges.

PER CURIAM:

This interlocutory appeal concerns the denial of qualified immunity to a number of officers on Kirk Fields’ claims under 42 U.S.C. § 1983 for false arrest, excessive force, and abandonment or destruction of personal property based on incidents in June of 2021 and March of 2022, as well as the denial of state law official immunity on state law claims for trespass against property. Following oral argument and a review of the record, we reverse in part and dismiss in part.¹

Our review on qualified immunity is *de novo*, but because this case is at the pleading stage, we take as true the factual allegations in the complaint and draw reasonable inferences in Mr. Fields’ favor based on those allegations. *See, e.g., Dalrymple v. Reno*, 334 F.3d 991, 994 (11th Cir. 2003). We also consider the officers’ bodycam footage to the extent that it is clear, construing any ambiguities in Mr. Fields’ favor. *See, e.g., Baker v. City of Madison*, 67 F.4th 1268, 1277–78 (11th Cir. 2023).

¹ Because we write for the parties, we assume their familiarity with the record and set out only what is necessary to explain our decision.

First, we do not have jurisdiction over the portion of the officers' appeal regarding the denial of state official immunity as to the state law trespass against property claims. As the officers' counsel conceded at oral argument, state law official immunity may be overcome by a showing of malice or bad faith. *See* Ga. Const. Art. I, § 2, ¶ 9(d). The district court concluded that, based on the allegations in the complaint, Mr. Fields had sufficiently alleged malice on the part of the officers with respect to the disposition of his property. *See* D.E. 100 at 36–37 (R&R); D.E. 112 at 17 (district court order). On appeal, the officers contend that the complaint failed to “plausibly establish” malice or bad faith, *see* Br. for Appellants at 39, but this contention is essentially one of pleading/evidentiary sufficiency, and we do not have interlocutory appellate jurisdiction to review interlocutory challenges to immunity denials that are based on that ground. *See, e.g., Cottrell v. Caldwell*, 85 F.3d 1480, 1484 (11th Cir. 1996) (“[W]e do not have interlocutory jurisdiction to review the denial of summary judgment where the only issues appealed are evidentiary sufficiency issues.”).

Second, we reverse the district court's denial of qualified immunity to the officers on the false arrest claims for both incidents. The bodycam videos, whose authenticity is not disputed, demonstrate that the officers had arguable probable cause to arrest Mr. Fields in June of 2021 for littering and in March of 2022 for solicitation.

Arguable probable cause exists when “reasonable officers in the same circumstances and possessing the same knowledge as the

[d]efendants could have believed that probable cause existed to arrest [the] [p]laintiff.” *Brown v. City of Huntsville*, 608 F.3d 724, 734 (11th Cir. 2010) (internal quotation marks and citation omitted). In June of 2021, the officers saw Mr. Fields in a wooded area where, along with some of his personal possessions, there was trash which could have been reasonably considered litter (rubbish or waste material that is “discarded or abandoned”) under Georgia law. See O.C.G.A. §§ 16-7-43(a), 16-7-42(1)(a). And in March of 2022, the officers observed Mr. Fields standing along a highway holding a squeegee and a sign that read “Need.” Based on these observations, the officers could have reasonably believed that Mr. Fields was soliciting contributions from the occupants of vehicles. See O.C.G.A. § 40-6-97(b).

Third, we remand to the district court to consider in the first instance whether the alleged Constitutional violation for Mr. Fields’ deprivation of property claim was clearly established at the time of arrest. Assuming, without deciding, that Mr. Fields’ Fourth Amendment right was violated when the officers destroyed his property after his arrest, we conclude that the district court erred in its qualified immunity analysis when it did not next consider whether this right was clearly established at the time of the alleged violation. See *Miller v. Palm Beach Cnty. Sheriff’s Off.*, 129 F.4th 1329, 1333 (11th Cir. 2025) (“[B]efore rejecting a defense of qualified immunity, a district court must address each issue with ‘sufficient explanation to provide this Court with an opportunity to engage in meaningful appellate review.’”) (quoting *Danley v. Allen*, 480 F.3d 1090, 1091 (11th Cir. 2007)) (alterations adopted). See also *Gates v.*

25-11639

Opinion of the Court

5

Khokhar, 884 F.3d 1290, 1302 (11th Cir. 2018) (“[T]he clearly-established inquiry . . . asks whether the preexisting law was so clear that, given the specific facts facing a particular officer, one must say that every reasonable official would have understood that what he is doing violates the Constitutional right at issue.”) (internal quotation marks and citation omitted).²

Fourth, we remand to the district court for consideration of the officers’ assertion of qualified immunity as to the March 2022 excessive force claim. That matter was not addressed in the order under review, *see* D.E. 100 at 35 n.20, and should be decided by the district court in the first instance. If it turns out that the officers had actual probable cause for the March 2022 arrest, then the excessive force claim will need to be evaluated as a standalone Fourth Amendment claim.

DISMISSED IN PART, REVERSED IN PART, AND REMANDED.

² Given our resolution, we need not and do not address the alternative allegations in the complaint that the officers violated Mr. Fields’ Fourth Amendment rights by abandoning his property.