

NOT FOR PUBLICATION

In the
United States Court of Appeals
For the Eleventh Circuit

No. 25-12350
Non-Argument Calendar

DAVID HARDING,

Plaintiff-Appellant,

versus

SEMINOLE COUNTY SHERIFF,

ALAN LAYTON,

Sergeant, in his official capacity and his individual capacity,

Defendants-Appellees,

CHARLES ALBRECHT,

in his individual capacity,

Defendant.

Appeal from the United States District Court
for the Middle District of Florida
D.C. Docket No. 6:23-cv-02063-RBD-DCI

Before NEWSOM, BRANCH, and BRASHER, Circuit Judges.

PER CURIAM:

David Harding, a former detention deputy with the Seminole County Sheriff's Office, brings claims against Sheriff Dennis Lemma and Sergeant Alan Layton based on two separate sets of events that occurred during his employment. First, he alleges that Sheriff Lemma is liable for the sexual harassment Harding experienced from a lieutenant in the sheriff's office. And second, he claims that Sergeant Harding is liable for malicious prosecution based on Harding's arrest for impersonating a deputy sheriff, false imprisonment, and battery. After careful consideration, we affirm the district court's grant of summary judgment to the defendants.

I. Background¹

A. Factual background

David Harding became a detention deputy employed by the Seminole County Sheriff's Office in October 2022. He held certifications as a detention deputy and as a deputy sheriff, but he was sworn in only as a detention deputy, and his work was confined to the jail.

Late in the evening on December 16, 2022, when Harding was off duty, he received a video call from Charles Albrecht, a lieutenant in the sheriff's office's law enforcement division.

¹ At the summary judgment stage, we view all evidence in the light most favorable to the nonmoving party—in this case, Harding. *Ismael v. Roundtree*, 161 F.4th 752, 758 (11th Cir. 2025).

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Albrecht was wearing a woman's wig, makeup, and women's lingerie and told Harding that he was sexually attracted to men. Albrecht hoped that because Harding was openly gay, he would help Albrecht with "obstacles that [he was] having with coming out." He also told Harding that he was interested in him sexually. According to Harding, Albrecht told Harding that if Harding had sex with him, Albrecht would "put in a word to get [him] out of the jail and onto the road" (in other words, transferred to the law enforcement division). Harding told Albrecht he "felt uncomfortable," and Harding "tried getting off the call."

After the 15- to 20-minute video call ended, Albrecht sent Harding a pornographic video of himself with a text message reading, "This is what I want you to do to me." The next day Albrecht texted Harding, "Apologies for being so forward last night," and Harding responded that his "apology was accepted" and that he was "here for [Albrecht] as a friend," but that he was "not comfortable with the conversation." Harding testified that he just wanted to "put the situation to rest" and avoid "creat[ing] waves" for himself at work. Harding related that after the video call, "[t]here was an instance where [he] ran into [Albrecht]" at work, and Albrecht gave him a look that was "not a comfortable look." Harding did not immediately report Albrecht's behavior to the sheriff's office, but he did eventually file a complaint with the Equal Employment Opportunity Commission sometime between February 18 and May 24, 2023. When the sheriff's office learned of the incident, it terminated Albrecht's employment.

In late December 2022, Harding went to a bar where he noticed a man named James Frick snorting cocaine in his car in the parking lot. According to Harding, he knocked on Frick's car window, flashed his badge, and told him that cocaine was not good for him and he should go home. According to Harding, Frick attempted to give him the cocaine and, when Harding refused it, said he would flush it instead. Frick later told investigators that Harding instructed him to throw the cocaine away.

Harding entered the bar and called for a marked unit, then returned to the parking lot. When Frick expressed that he wanted to "get off" drugs and that he knew a lot of drug dealers, Harding offered to help him get in contact with people who could make him a confidential informant. Harding and Frick exchanged phone numbers and entered the bar.

A few days later, Harding set up a meeting between Frick and a drug enforcement agent. Harding attended the meeting and then took Frick back to his house for dinner. While there, Harding gave Frick a massage but then asked him to leave.

In the meantime, the drug agent had found Harding's involvement in the meeting with Frick "weird." The agent told his supervisor, Sergeant Alan Layton, that "Harding, a deputy, stopped this guy[,] had him . . . basically destroy evidence," and then "proceeded in a bar to drink." Layton, in turn, reported the incident to his superiors. On January 6, the sheriff authorized an administrative investigation into Harding's actions, and he also directed Layton to open a criminal investigation.

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Layton's investigation ultimately led him to obtain a warrant for Harding's arrest on three charges: false personation of an official while in the commission of a felony, false imprisonment, and battery. In his affidavit supporting his application for an arrest warrant, Layton detailed his investigation into Harding's interactions with Frick. Layton averred that he had interviewed Frick, who said he "was under the impression Harding was a police officer and had the authority to arrest him" on the day of the parking lot encounter. Harding then "ordered [him] to turn around and put his hands behind his back" while Harding searched him. According to Frick, Harding "inappropriately grabbed his penis during the search." Frick told Layton that "Harding showed him a badge that was in his wallet and told him he worked for Seminole County and could take him to jail." Frick also disclosed that when he visited Harding's residence, Harding gave him a massage and "rubb[ed] his penis during the massage," so Frick left.

In a later interview, Frick reiterated that Harding "flashed a badge, acting like he was a cop" and "told [Frick] he could have him arrested right now." He said that Harding "put him up against his car and proceeded to search him," and that Harding "groped [Frick's] penis during the search." He repeated that during the massage Harding gave him, Harding began rubbing his penis.

Layton also spoke to a witness from the bar, who told Layton that "there was an incident in the parking lot and Harding told [Frick] that he (Harding) was 'a cop'" and that Frick "was detained in the parking lot and was either 'grabbed' or 'frisked.'"

The witness also told Layton that he learned from a friend that Harding was not actually a law enforcement officer, so the witness confronted Harding and told Harding “he knew he was not a real police officer and knew he was only a corrections officer.”

Another witness told Layton she had observed “Harding yelling at Frick and pointing his finger at him,” after which “Frick told her he believed he was about to go to jail” and that “Harding was a cop who ‘busted’ him and made him throw away all of his cocaine.” When the witness later talked to Harding directly, Harding “advise[d] her he could have arrested Frick outside” and “said that he was a police officer.”

Layton attempted to speak with Harding, but Harding told him he would rather speak with him when Harding’s attorney was available. Layton asserted that he “discovered that Harding was a Detention Deputy with the Sheriff’s Office and not a Deputy Sheriff.” According to Layton’s affidavit, although Harding

attended the police academy for the discipline for a sworn law enforcement officer he was not authorized to act as a Deputy Sheriff with the Seminole County Sheriff’s Office with the power to make arrests or to detain members of the public or to conduct a frisk or search of a member of the public or behave as a Law Enforcement Officer.

As a result of the investigations, Harding was suspended and then terminated from his detention deputy position. When Harding agreed to irrevocably relinquish his law enforcement and

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detention deputy certifications, the state dismissed his three criminal charges.

B. Procedural background

Harding filed this complaint in October 2023, bringing claims against Sheriff Dennis Lemma, Charles Albrecht, and Alan Layton. Against Lemma, Harding brought claims for sexual harassment (based on Albrecht's actions) under Title VII and under the Florida Civil Rights Act (FCRA); retaliation under Title VII and the FCRA; negligent hiring, retention, and supervision under Florida state law; and false arrest under state law. Against Layton, Harding brought claims for unlawful seizure under 42 U.S.C. § 1983 and the Fourth Amendment and for malicious prosecution under state law. And Harding brought claims against Albrecht for intentional infliction of emotional distress. During the course of the litigation, Harding abandoned or settled all but the sexual harassment claims against Lemma and the unlawful seizure and malicious prosecution claims against Layton.

After discovery, the defendants moved for summary judgment, and the district court granted them summary judgment on the remaining claims. On the sexual harassment claims, the court concluded that Lemma was not liable for Albrecht's harassment because Albrecht was not Harding's supervisor and because Lemma had neither actual nor constructive notice of Albrecht's behavior. As to the unlawful seizure and malicious prosecution claims, the court found that both claims failed because

Layton had probable cause for each of the three charges in his affidavit and the resulting arrest warrant.

This is Harding's appeal.

II. Standard of Review

We review a district court's grant of summary judgment *de novo*. *Ismael v. Roundtree*, 161 F.4th 752, 758 (11th Cir. 2025). We view all evidence and factual inferences reasonably drawn from the evidence in the light most favorable to the nonmoving party, but "a mere scintilla of evidence will not suffice to overcome a motion for summary judgment." *Id.* (omission adopted) (quotations omitted). A court may grant summary judgment "if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." *Id.* (quoting Fed. R. Civ. P. 56(a)).

III. Discussion

A. *The sexual harassment claims against Sheriff Lemma*

Harding argues that the district court erred when it granted Lemma summary judgment on Harding's federal and state sexual harassment claims related to Albrecht's conduct.² Harding bases his sexual harassment claims on two grounds: (1) hostile work

² Harding brought claims under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-2(a), and under the FCRA, Fla. Stat. §§ 760.01 *et seq.* Harding's FCRA claim "require[s] no separate discussion because the FCRA is modeled after Title VII, and we use the same framework to analyze claims under it." *Fernandez v. Trees, Inc.*, 961 F.3d 1148, 1152 n.4 (11th Cir. 2020).

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environment and (2) quid pro quo sexual harassment. Both claims fail because Albrecht was not Harding's supervisor, and there is no evidence that Lemma knew, or had reason to know, of Albrecht's sexual harassment.

When a plaintiff brings a hostile work environment claim against his employer based on a fellow employee's sexual harassment, he must show that

- (1) [t]he employee belongs to a protected group;
- (2) the employee was subject to unwelcome harassment; (3) the harassment complained of was based upon sex; (4) the harassment complained of was sufficiently severe or pervasive to alter the terms and conditions of employment; and (5) [there is] a basis for holding the employer liable.

Wilcox v. Corr. Corp. of Am., 892 F.3d 1283, 1286–87 (11th Cir. 2018) (quotations omitted).

Under the fifth element, “[w]hen . . . the perpetrator of the harassment is not the plaintiff's supervisor, the employer will be held directly liable only if it knew or should have known of the harassing conduct but failed to take prompt remedial action.” *Id.* at 1287. An employee is a supervisor when “the employer has empowered that employee to take tangible employment actions against the victim . . . , such as hiring, firing, failing to promote, reassign[ing] with significantly different responsibilities, or [making] a decision causing a significant change in benefits.” *Vance v. Ball State Univ.*, 570 U.S. 421, 431 (2013) (quotations omitted).

Harding has not presented any evidence that Albrecht was his supervisor. He asserts in his brief that “Albrecht had at least the apparent authority, if not actual authority, to have Harding moved from one division to another within the [Seminole County Sheriff’s Office].” And he says there is a material factual dispute regarding “whether or not Albrecht offered to get [Harding’s] assignment changed for the better” on the December 2022 video call. But he has offered no evidence that Albrecht was “empowered . . . to take tangible employment actions against” him. *Id.* at 431. Indeed, Harding testified that Albrecht was not in his chain of command and that he and Albrecht worked in different divisions of the sheriff’s office. And even according to Harding’s own version of the video chat, Albrecht merely told him that he could “put in a word to get [him] out of the jail and onto the road.” Harding testified only that Albrecht offered to recommend his transfer, not that Albrecht claimed he could effect such a transfer. Harding has thus failed to create a genuine dispute of material fact regarding whether Albrecht was his supervisor.³ See *Ismael*, 161 F.4th at 758.

³ Harding argues that even if Albrecht did not have *actual* authority over him, “Albrecht possessed the apparent authority . . . to have Harding moved from one division to another.” But in *Burlington Industries, Inc. v. Ellerth*, the Supreme Court observed that generally “a supervisor’s harassment involves misuse of actual power, not the false impression of its existence.” 524 U.S. 742, 759 (1998); *id.* at 759–60 (“When a party seeks to impose vicarious liability based on an agent’s misuse of delegated authority, the . . . [‘]aided in the agency relation[’] rule, rather than the [‘]apparent authority[’] rule, appears to be the appropriate form of analysis.”). While the Court left open the possibility that “in the unusual case,” a plaintiff might “allege[] there is a false

Because Albrecht was not Harding's supervisor, Harding must show that Lemma "knew or should have known of the harassing conduct but failed to take prompt remedial action." *Wilcox*, 892 F.3d at 1287. A plaintiff can show his "employer knew about the harassment by showing that [he] complained to management about it," and he can show his employer "should have known about harassment that was so pervasive as to create an inference of constructive knowledge." *Id.* Harding has done neither.

Harding has offered evidence that he did eventually file a complaint about Albrecht's behavior. But Harding did not do so until *after* Harding himself had already been terminated. According to Harding, he received a notice of proposed termination on February 16, 2023, and he was officially terminated on February 21. And while he disputed the exact date he filed his complaint, he agreed that he "obviously didn't file it before February 18," because the complaint itself "reference[d] being discharged on February

impression that the actor was a supervisor, when he in fact was not," it noted that the false impression "must be a reasonable one." *Id.* at 759.

Harding has not shown that it was reasonable for him to believe Albrecht had authority over him. His only explanation for why he believed that Albrecht had authority over his promotion is that "Albrecht was a high ranking member of the [sheriff's office] who, at the time, was on track to become a captain." Harding has not pointed to any case where we have found an employee reasonably believed his harasser was his supervisor based only on the harasser's seniority. Indeed, Harding has pointed to no case where we have allowed for vicarious liability in this context based on apparent authority alone. His apparent authority argument therefore fails.

18th.” Harding also testified that he did not report the harassment to anybody at the sheriff’s office before he was suspended in January 2023. And Harding has offered no other evidence that he complained to anyone at the sheriff’s office prior to his own termination.

Nor was Albrecht’s harassment “so pervasive as to create an inference of constructive knowledge.” *Id.* In fact, the only incident Harding offered of harassment in the workplace was “an instance where [Harding] ran into [Albrecht]” and “it was just the way [Albrecht] looked at [Harding], it was not a comfortable look.” A single uncomfortable look does not constitute pervasive harassment. *Cf. Tonkyro v. Sec’y, Dep’t of Veterans Affs.*, 995 F.3d 828, 839 (11th Cir. 2021). Because Harding has not shown that Lemma knew or should have known of Albrecht’s harassment, his hostile work environment claim fails. *Wilcox*, 892 F.3d at 1287.

As for Harding’s quid pro quo claim, the Supreme Court has instructed that the term “quid pro quo” “should no longer be used in the analysis of whether an employer is liable under Title VII,” so we instead “use[] the preferred term ‘tangible employment action’ to refer to harassment that culminates in a discharge, demotion, or undesirable reassignment.” *Hulsey v. Pride Rests., LLC*, 367 F.3d 1238, 1245 n.4 (11th Cir. 2004) (citing *Burlington Indus., Inc. v. Ellerth*, 524 U.S. 742, 753–54 (1998)). “An employer is liable under Title VII if it (even unknowingly) permits a supervisor to take a tangible employment action against an employee because [he] refused to give in to his sexual overtures.” *Id.* at 1245. Because “co-

workers cannot take employment actions against each other,” plaintiffs may bring Title VII claims based on tangible employment actions only based on harassment by a supervisor. *Johnson v. Booker T. Washington Broad. Serv., Inc.*, 234 F.3d 501, 508 (11th Cir. 2000). Thus, because Albrecht was not Harding’s supervisor, Harding’s tangible employment action claim also fails.⁴

B. The malicious prosecution claims against Sergeant Layton

Harding argues that the district court erred when it granted Layton summary judgment on Harding’s § 1983 claim for unlawful seizure under the Fourth Amendment and his state law claim for malicious prosecution. Harding’s claims related to his arrest fail because Layton had probable cause for his warrant and arrest.

1. The § 1983 claim for unlawful seizure

We analyze a “claim for unreasonable seizure pursuant to legal process,” such as Harding’s claim for unlawful arrest pursuant to an arrest warrant, as a Fourth Amendment claim for malicious prosecution. *Butler v. Smith*, 85 F.4th 1102, 1111 (11th Cir. 2023) (quoting *Thompson v. Clark*, 596 U.S. 36, 42 (2022)). A plaintiff bringing such a claim must prove both “the elements of the

⁴ Harding contends that a defendant employer is entitled to summary judgment only when he has offered a “legitimate, non-retaliatory reason for the adverse employment action” (quotations omitted), and that Lemma’s evidence regarding the reasons for Harding’s termination is “almost entirely based on the inconsistent testimony of . . . various witnesses.” We need not consider whether any type of burden-shifting might apply, because Harding has not established a *prima facie* case of sexual harassment.

common-law tort of malicious prosecution” and “a violation of his Fourth Amendment right to be free from unreasonable seizures.” *Id.* (quotations omitted). Because Layton asserted his actions were protected by qualified immunity, Harding must also show that qualified immunity does not apply.⁵ *Id.* at 1112.

To meet these burdens, Harding must prove the following seven elements: (1) “a criminal prosecution instituted or continued by the present defendant,” (2) “with malice and without probable cause,” (3) “that terminated in the plaintiff accused’s favor,” (4) and that “caused damage to the plaintiff accused”; (5) “that the legal process justifying [his] seizure was constitutionally infirm,” (6) and “that [his] seizure would not otherwise be justified without legal process”; and finally (7) “that the law was clearly established.” *Id.* at 1111–12 (quotations omitted). Our analysis begins and ends with the second and fifth elements (which “effectively merge[]” in this analysis, *id.* at 1112).

“A plaintiff can prove that the warrant used to arrest [him] was ‘constitutionally infirm’ by showing either that the officer who applied for the warrant should have known that [his] application failed to establish probable cause or that the officer intentionally or recklessly made misstatements or omissions necessary to support

⁵ To assert qualified immunity, Layton must first show that he was “engaged in a ‘discretionary function’ when he performed the acts of which the plaintiff complains.” *Holloman ex rel. Holloman v. Harland*, 370 F.3d 1252, 1263–64 (11th Cir. 2004) (quotations omitted). Harding does not appear to contest that Layton was engaged in a discretionary function when he arrested Harding.

the warrant.” *Id.* (quotations omitted). In other words, Harding’s malicious prosecution claim “depends on whether [he] can show that [Layton] lacked probable cause to seek [his] arrest.” *Prospero v. Sullivan*, 153 F.4th 1171, 1183 (11th Cir. 2025). We must therefore consider “(1) whether [Layton] intentionally or recklessly made misstatements or omissions in the arrest affidavit” and “(2) whether the arrest affidavit still would have established probable cause absent the misstatements or omissions.” *Id.* (quotations omitted).

Because Layton’s arrest affidavit alleged three separate crimes, we will consider whether he had probable cause for each. *See Williams v. Aguirre*, 965 F.3d 1147, 1162 (11th Cir. 2020) (holding that the “any-crime rule” does not apply to Fourth Amendment malicious prosecution claims).

a. False personation of an official while in the commission of a felony charge

Under Florida law, no person may “falsely assume[] or pretend[] to be . . . a deputy sheriff.” Fla. Stat. § 843.08. If he does so “during the course of the commission of a felony,” he “commits a felony of the second degree.” *Id.* Layton’s affidavit demonstrates that he had probable cause to believe Harding falsely pretended to be a deputy sheriff while committing false imprisonment and battery.

In his affidavit, Layton asserted that Frick told him Frick “was under the impression Harding was a police officer and had the authority to arrest him” on the day of the parking lot

encounter. Frick said Harding “ordered [him] to turn around and put his hands behind his back” while Harding searched him and that Harding “inappropriately grabbed his penis during the search.” Frick also told Layton that “Harding showed him a badge that was in his wallet and told him he worked for Seminole County and could take him to jail.”

Two witnesses confirmed Frick’s allegations. One witness from the bar told Layton that “there was an incident in the parking lot and Harding told [Frick] that he (Harding) was ‘a cop’” and that Frick “was detained in the parking lot and was either ‘grabbed’ or ‘frisked.’” The witness said that he learned from a friend that Harding was not actually a law enforcement officer, and the witness told Harding “he knew [Harding] was not a real police officer and knew he was only a corrections officer.” Another witness told Layton she had observed “Harding yelling at Frick and pointing his finger at him,” after which “Frick told her he believed he was about to go to jail” and that “Harding was a cop who ‘busted’ him and made him throw away all of his cocaine.” When she later talked to Harding directly, Harding “advise[d] her he could have arrested Frick outside” and “said that he was a police officer.”

Layton asserted he had “discovered that Harding was a Detention Deputy with the Sheriff’s Office and not a Deputy Sheriff.” Layton continued that, although Harding

attended the police academy for the discipline for a sworn law enforcement officer he was not authorized

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to act as a Deputy Sheriff with the Seminole County Sheriff's Office with the power to make arrests or to detain members of the public or to conduct a frisk or search of a member of the public or behave as a Law Enforcement Officer.

Harding does not dispute that he held himself out to be a deputy sheriff, but he argues that Layton either committed an "intentional oversight" or "blatant[ly] lie[d]" when he asserted that he knew Harding was not a law enforcement officer. First, Harding contends that Layton's affidavit suggested Layton found out from his lieutenant, Chad McDaniel, that Harding was not a law enforcement officer, but that McDaniel testified that Layton had not consulted with him while Layton was investigating Harding. But, in fact, the affidavit simply says that Layton notified McDaniel when he first learned of Harding's interactions with Frick and that Layton then "discovered that Harding was a Detention Deputy with the Sheriff's Office and not a Deputy Sheriff." In his deposition, Layton testified that he "was advised through [his] chain [of command]" that Harding "was only sworn as a corrections . . . deputy," and that either his captain or lieutenant had provided that information. Because Harding did not depose Layton's captain, Harding has not shown that Layton "intentionally or recklessly made misstatements or omissions necessary to support the warrant." *Butler*, 85 F.4th at 1112 (quotations omitted).

Second, Harding argues that Layton's statement was intentionally or recklessly false because Harding was, indeed, a

deputy sheriff. But Florida’s statutory requirements for deputy sheriffs and the undisputed evidence demonstrate otherwise.

A deputy sheriff is “a law enforcement officer appointed by the sheriff and certified” as such. Fla. Stat. § 30.072(2). “A sheriff has exclusive power to appoint a deputy sheriff.” Fla. Stat. § 30.073(1). Florida law prohibits a deputy sheriff from “perform[ing] any services as deputy until he or she subscribes to the oath prescribed for sheriffs.” Fla. Stat. § 30.09(1)(a).

Harding testified that he was “dual certified” as both a corrections officer and a law enforcement officer. He also testified that both certifications “ha[d] been activated,” but that the only oath he signed when he was sworn in was the “Detention Deputy Oath.” In his brief, he asserts—without support—that in the sheriff’s office’s “Officer Certification Application they list Harding’s certification type as ‘Law Enforcement’” and that the sheriff’s office “had Deputy Harding performing law enforcement functions such as serving warrants, which are the exclusive duty of the Sheriff or his designees.” He testified, however, that he “did warrants *in the jail*” and “effect[ed] arrest for behavior and criminal offenses that took place *in the jail*” (emphasis added). Harding has thus offered no evidence that he was appointed as a deputy sheriff by the sheriff or that he took an oath as a deputy sheriff.

Harding has therefore not shown that Layton “intentionally or recklessly made misstatements or omissions in the arrest affidavit” regarding Harding’s status as a law enforcement officer. *Prospero*, 153 F.4th at 1183. Accordingly, Layton did not lack

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probable cause to seek Harding's arrest for false personation of an official while in the commission of a felony.

b. False imprisonment and battery charges

Florida prohibits “forcibly, by threat, or secretly confining, abducting, imprisoning, or restraining another person without lawful authority and against her or his will.” Fla. Stat. § 787.02(1)(a). It also prohibits battery, which includes “[a]ctually and intentionally touch[ing] . . . another person against the will of the other.” Fla. Stat. § 784.03(1)(a)(1). Harding does not dispute that he “restrain[ed] [Frick] . . . against his . . . will” or that he “intentionally touche[d] [him] against [his] will.” *Id.* §§ 787.02(1)(a), 784.03(1)(a)(1). His dispute seems to be confined to whether he did so lawfully, as a law enforcement officer who observed criminal behavior. As discussed above, Harding has not presented evidence creating a genuine dispute of material fact regarding whether Layton misstated that Harding was not a law enforcement officer. Thus, he has likewise failed to demonstrate that Layton lacked probable cause for the false imprisonment and battery charges. *See Prospero*, 153 F.4th at 1184.

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Because Layton had probable cause to arrest Harding on all three charges, he is entitled to summary judgment on Harding's Fourth Amendment malicious prosecution claim. *See id.* at 1185.

2. The state law claim for malicious prosecution.

Under Florida law, a plaintiff bringing a malicious prosecution claim must show, among other things, that “there was an absence of probable cause for the original [judicial] proceeding.” *Paez v. Mulvey*, 915 F.3d 1276, 1291 (11th Cir. 2019) (quotations omitted). Because “the standard for determining whether probable cause exists is the same under Florida and federal law,” our conclusion that Layton had probable cause for all three charges in his affidavit forecloses Harding’s state law claim as well. *Rankin v. Evans*, 133 F.3d 1425, 1435 (11th Cir. 1998).⁶

IV. Conclusion

For the reasons discussed above, we **AFFIRM** the district court’s grant of summary judgment.

⁶ Harding separately argues that the district court erred when it struck his expert witness for untimely disclosure. Harding asserts that his expert’s testimony was “of paramount importance” to his case, and that “only someone with expert knowledge and experience of proper procedures for Police Standards and Practices can adequately guide the jury on the merits of how [Harding] was improperly treated by the Defendants.” But Harding has not demonstrated how any of the evidence his expert offered would change our analysis of his sexual harassment and malicious prosecution claims. Harding’s expert could not have offered evidence that, as a matter of fact, Albrecht had the ability to promote Harding, that Lemma knew of Albrecht’s sexual harassment, or that Layton lacked probable cause to believe that Harding had not been appointed by the sheriff and taken the oath of a deputy sheriff. Because Harding’s claims fail notwithstanding any evidence the expert could have offered, we need not consider whether the district court abused its discretion when it struck the expert’s report.