

NOT FOR PUBLICATION

In the
United States Court of Appeals
For the Eleventh Circuit

No. 26-11137
Non-Argument Calendar

ROBERT E. COLEMAN, JR.,

Plaintiff-Appellant,

versus

BENJAMIN W. FOWLER,
JIMMY RAY CRONAN, II,
ALEX J. ANDREWS,

Defendants-Appellees.

Appeal from the United States District Court
for the Southern District of Georgia
D.C. Docket No. 1:24-cv-00121-JRH-BKE

Before GRANT, ABUDU, and ANDERSON, Circuit Judges.

PER CURIAM:

Robert Coleman, Jr. brings this appeal to challenge the district court's decision to grant summary judgment in the defendants' favor on his malicious prosecution and retaliatory arrest claims. We affirm.

I.¹

In the wee hours of October 30, 2022, Robert Coleman was lurking around a Taco Bell parking lot. Meanwhile, Ciera Burgess and her coworker were getting ready to head home following their shifts. Coleman approached Burgess, commenting that “your car smells like weed, how would you like to spend the night in jail”? Coleman then demanded that she hand over her I.D. Burgess's coworker called the police to report that someone was impersonating a police officer.

Officers from the Columbia County Sheriff's Office soon arrived at the scene. As Coleman was walking away, Deputy Jimmy Cronan instructed him to “come back and talk to me.” After Coleman refused, Deputy Alex Andrews stopped him and brought him back to Cronan. Cronan immediately asked for his I.D., and Coleman said “I don't have any I.D. on me.” Sergeant Ben Fowler asked Coleman for his name. Coleman did not answer, and he was arrested at the scene.

In a search incident to that arrest, the officers found his driver's license in his pocket. Cronan took Coleman to jail, and then applied for a criminal warrant. As alleged in Cronan's warrant

¹ The following facts are undisputed.

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affidavit, Coleman “intentionally obstructed” a “lawful investigation” when he “refused to provide his name” after “the deputy was dispatched to the scene when [Coleman] was reported to have been harassing two people in a parking lot.” In issuing the warrant, the magistrate judge determined that there was probable cause to believe that Coleman had obstructed a law enforcement officer in violation of Georgia law. *See* OCGA § 16-10-24. He was released on bail a few hours later, and the district attorney dropped the charge not long after.

Proceeding under both 42 U.S.C. § 1983 and Georgia law, Coleman filed this lawsuit against Fowler, Cronan, and Andrews. As relevant here, Coleman alleges that the defendants violated the Fourth Amendment and state law by arresting him and seeking charges for obstruction of a law enforcement officer. He also alleges that they retaliated against him for exercising his First Amendment “right to peaceably refuse to speak with law enforcement officers.”

The district court granted summary judgment in the defendants’ favor. The court concluded that they were entitled to qualified immunity on Coleman’s § 1983 false arrest and malicious prosecution claims: they had lawful authority to verify Coleman’s identity and obtained arguable probable cause once Coleman lied about not carrying his I.D. For similar reasons, the court found that they were entitled to official immunity on Coleman’s state law claims. The court further concluded that the First Amendment did

not protect Coleman’s refusal to answer the officers’ questions about his identity. Coleman now appeals.

II.

We review de novo the district court’s grant of summary judgment, including a decision finding qualified immunity. See *Myrick v. Fulton County*, 69 F.4th 1277, 1300 (11th Cir. 2023).

III.

On appeal, Coleman defends only his malicious prosecution and retaliation claims. We agree with the district court that they fail as a matter of law.

A.

To show malicious prosecution under § 1983, the plaintiff must prove that a “government official charged him without probable cause, leading to an unreasonable seizure of his person.” *Chiaverini v. City of Napoleon*, 602 U.S. 556, 558 (2024). Under this “charge-specific approach,” we must ask whether the official had probable cause regarding the plaintiff’s alleged commission of the *charged* crimes—rather than his “commission of *uncharged* crimes.” *Williams v. Aguirre*, 965 F.3d 1147, 1160–62 (11th Cir. 2020).

Probable cause only requires “a probability or substantial chance of criminal activity, not an actual showing of such activity”—it is not a “high bar.” *District of Columbia v. Wesby*, 583 U.S. 48, 57 (2018) (quotation omitted). Additionally, a government official is entitled to qualified immunity if he had “arguable probable cause” for the prosecution. *Grider v. City of Auburn*, 618

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F.3d 1240, 1257 (11th Cir. 2010). This relaxed standard “is broad enough to cover some mistaken judgment, and it shields from liability all but the plainly incompetent or those who knowingly violate the law.” *Montoute v. Carr*, 114 F.3d 181, 184 (11th Cir. 1997) (quotation omitted).

Coleman was detained pursuant to a criminal warrant alleging one count of misdemeanor obstruction of a law enforcement officer. See OCGA § 16-10-24(a). The question, then, is whether the defendants had at least arguable probable cause to suspect that Coleman committed misdemeanor obstruction.² The answer is yes.

Under § 16-10-24(a), “a person who knowingly and willfully obstructs or hinders any law enforcement officer . . . in the lawful discharge of his or her official duties shall be guilty of a misdemeanor.” This statute prohibits not just “lying with the intent of misdirecting an officer as to the performance of his official duties,” but also the “refusal to provide identification” upon lawful request. *Wilson v. State*, 261 Ga. App. 576, 578 (2003) (alteration adopted and quotation omitted); *Herren v. State*, 201 Ga.

² Generally, in assessing a malicious prosecution claim, we may only consider “the information that the judicial officer had” when she issued the arrest warrant. *Harris v. Hixon*, 102 F.4th 1120, 1134 (11th Cir. 2024). But in cases like this one, where “the period of detention after arrest is brief, information known to the officers but not communicated to the judicial officer may be considered to uphold the seizure.” *Id.* As a result, we may consider not only Coleman’s refusal to disclose his name but also his failure to provide identification and his false statement that he did not carry one at all.

App. 509, 510 (1991) (quotation omitted); *see also Bailey v. State*, 190 Ga. App. 683, 684 (1989). Here, there was at least arguable probable cause to suspect that Coleman had impeded a legitimate and ongoing investigation into his identity.

For starters, Coleman does not dispute that his initial stop was supported by “reasonable suspicion” and thus justified at its inception. *See Ornelas v. United States*, 517 U.S. 690, 693 (1996) (citing *Terry v. Ohio*, 392 U.S. 1 (1968)). In the course of a *Terry* stop, an officer may inquire into the suspect’s identity to the extent it is “reasonably related to the circumstances justifying the stop.” *Hiibel v. Sixth Jud. Dist. Ct. of Nev.*, 542 U.S. 177, 187–88 (2004). After all, the “request for identity has an immediate relation to the purpose, rationale, and practical demands of a *Terry* stop,” and the “threat of criminal sanction helps ensure that the request for identity does not become a legal nullity.” *Id.* at 188.

The defendants were within bounds to inquire into Coleman’s identity to determine whether he was impersonating a police officer. Rather than truthfully answer their questions or comply with orders to provide I.D., as Georgia law requires, Coleman stated that “I don’t have any I.D. on me.” *See Wilson*, 261 Ga. App. at 578; *Herren*, 201 Ga. App. at 510. The defendants learned about this falsehood when a search incident to arrest revealed that Coleman was, in fact, carrying his I.D. And upon catching Coleman in a lie, the defendants had ample grounds to pursue a misdemeanor obstruction charge.

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In response, Coleman maintains that his false statement was inadvertent because “he did not realize that his license was in his pocket.” Even so, neither probable cause nor arguable probable cause depends on a “prima facie showing” of criminal activity. *Illinois v. Gates*, 462 U.S. 213, 235 (1983) (quotation omitted); *see also Grider*, 618 F.3d at 1257. Indeed, the Fourth Amendment does not impose “a rigid requirement that an arresting officer must have specific evidence of suspects’ subjective intent when their conduct otherwise gives rise to probable cause.” *Davis v. City of Apopka*, 78 F.4th 1326, 1335 (11th Cir. 2023) (quotation omitted). The fact that Coleman might later assert a mens rea defense at trial does not negate the existence of arguable probable cause at the moment when charges were filed.

Next, Coleman contends that those charges lacked arguable probable cause because the defendants relied on evidence (namely, the I.D. found in his pocket) obtained as a result of an allegedly unlawful search incident to arrest. Even assuming for argument’s sake that the search was unlawful, arguable probable cause still exists. The fruit-of-the-poisonous-tree doctrine is a “component of the exclusionary rule,” which applies “only in criminal trials.” *Black v. Wigington*, 811 F.3d 1259, 1267 (11th Cir. 2016); *Pa. Bd. of Prob. & Parole v. Scott*, 524 U.S. 357, 364 n.4 (1998). For that reason, we have held that “the exclusionary rule does not apply in a civil suit against police officers,” and that they may rely on the fruits of an allegedly unlawful search to establish either a probable cause defense or qualified immunity. *Black*, 811 F.3d at 1268. The I.D. found in Coleman’s pocket therefore provided the defendants with arguable

probable cause to believe that he had intentionally lied to a police officer, in violation of § 16-10-24. *See Wilson*, 261 Ga. App. at 578.

What's more, Coleman waived his false arrest claim on appeal, proceeding only with his malicious prosecution and retaliation claims. The distinction between false arrest and malicious prosecution is crucial: while both sound in the Fourth Amendment, false arrest “consists of detention without legal process” and “ends once the victim becomes held *pursuant to such process*—when, for example, he is bound over by a magistrate or arraigned on charges.” *Wallace v. Kato*, 549 U.S. 384, 389–90 (2007). Malicious prosecution, on the other hand, consists of the “*wrongful institution* of legal process.” *Id.* at 390; *see also Heck v. Humphrey*, 512 U.S. 477, 484 (1994). Because the only Fourth Amendment violation pressed on appeal is the defendants’ involvement in Coleman’s prosecution, we need not—and do not—consider whether his initial arrest (and the search incident to that arrest) was valid. What matters is that the defendants had at least arguable probable cause to believe that Coleman obstructed their investigation by lying about whether he was carrying his I.D. For purposes of Coleman’s § 1983 malicious prosecution claim, that is enough for qualified immunity.

Coleman’s state law malicious prosecution claim fares no better. Under the Georgia Constitution, police officers are entitled to official immunity unless they act “with actual malice or with actual intent to cause injury in the performance of their official functions.” *Gilbert v. Richardson*, 264 Ga. 744, 752 (1994) (quoting

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Ga. Const. art. I, § 2, ¶ IX(d)). Here, the evidence which led the defendants to reasonably conclude that Coleman “had committed the criminal offenses for which he was ultimately indicted” dispels any inference of actual malice or an intent to injure. *Sears Co. v. Weddington*, 197 Ga. App. 52, 53 (1990); *see also Black*, 811 F.3d at 1265–66.

B.

Last, Coleman asserts that the defendants violated the First Amendment by arresting him in retaliation against his failure to disclose his identity. To prevail on such a claim, Coleman must prove that (1) he engaged in “constitutionally protected speech,” (2) “the defendant’s retaliatory conduct adversely affected that protected speech,” and (3) “a causal connection exists between the defendant’s retaliatory conduct and the adverse effect on the plaintiff’s speech.” *DeMartini v. Town of Gulf Stream*, 942 F.3d 1277, 1289 (11th Cir. 2019).

We start and end with the first prong. As we have explained, Coleman lacked a constitutionally protected right to refuse to disclose his identity in the course of a lawful *Terry* stop. *See Hiibel*, 542 U.S. at 187–88. As a result, the defendants did not violate the First Amendment by arresting Coleman under Georgia’s obstruction statute.

To the extent Coleman’s retaliation theory rests on the Fifth Amendment’s prohibition against compelled self-incrimination, that theory fails because he has not—and cannot—point to “any articulated real and appreciable fear that his name would be used

to incriminate him.” *Id.* at 190. In other words, the disclosure of his name alone would not have exposed him to prosecution or punishment for any crime.

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We **AFFIRM** the district court’s grant of summary judgment.