NOT FOR PUBLICATION

FILED

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MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

MARK DAVID BROWN; VERNON EDWARD PELTZ, Plaintiffs-Appellants, v. ALFRED B. GUINEE, both individually and in his official capacity; et al., Defendants-Appellees.	No. 22-15426 D.C. Nos. 4:19-cv-00415-DCB 4:19-cv-00418-DCB MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
David C. Bury, District Judge, Presiding

Submitted July 6, 2023**
San Francisco, California

Before: WALLACE, O'SCANNLAIN, and SILVERMAN, Circuit Judges.

Mark Brown and Vernon Peltz appeal pro se from the district court's summary judgment in favor of City of Tucson officials in their case challenging Brown and Peltz's treatment after they videotaped inside the Tucson City Court

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

building in violation of court rules. We have jurisdiction under 28 U.S.C. § 1291. We review a district court's summary judgment de novo, *Carver v. Holder*, 606 F.3d 690, 695 (9th Cir. 2010), and we affirm.

First, the district court did not err in granting summary judgment to Appellees on Brown and Peltz's retaliatory arrest claim arising out of the altercation on May 30, 2018 at the Tucson City Court. Officers had probable cause to arrest Brown and Peltz for disorderly conduct for engaging in a "protracted commotion . . . with the intent to prevent the transaction of the business of a lawful meeting, gathering or procession" when they videotaped in the court building in violation of court rules. A.R.S. § 13-2904. Probable cause defeats a claim for retaliatory arrest, except in the "narrow" case where plaintiffs provide "objective evidence that [they were] arrested when otherwise similarly situated individuals not engaged in the same sort of protected speech had not been." *Ballentine v. Tucker*, 28 F.4th 54, 61–62 (9th Cir. 2022) (citing *Nieves v. Bartlett*, 139 S. Ct. 1715 (2019)). Brown and Peltz did not provide such evidence.

Brown and Peltz's arguments are not persuasive. The officers' subjective reasons for effectuating the arrest are irrelevant because the probable cause inquiry is viewed through the eyes of an objective officer. *Devenpeck v. Alford*, 543 U.S. 146, 154 (2004). That a single officer was not present for the entire altercation does not defeat probable cause because under the collective knowledge doctrine,

probable cause can form from the knowledge of multiple officers involved in a single incident. *United States v. Ramirez*, 473 F.3d 1026, 1032 (9th Cir. 2007). Finally, although Brown and Peltz were arrested for trespassing and not disorderly conduct, probable cause to arrest them for the "closely related offense" of disorderly conduct defeats their retaliatory arrest claim because the probable cause is based on the same conduct underlying the trespassing arrest. *Bingham v. City of Manhattan Beach*, 341 F.3d 939, 950 (9th Cir. 2003).

Second, the district court did not err in granting summary judgment to Appellees on Brown and Peltz's First Amendment claim. As explained above, any First Amendment claim based on the arrest itself is defeated by the existence of probable cause. To the extent Brown and Peltz challenge the harassment orders and injunction issued by the state courts, we lack jurisdiction to review those orders under the *Rooker-Feldman* doctrine. *See, e.g.*, *Exxon Mobil Corp. v. Saudi Basic Indus. Corp.*, 544 U.S. 280, 284 (2005). To the extent Brown and Peltz argue that the Arizona court recording rules themselves violate the First Amendment, the claim is barred by collateral estoppel because Brown and Peltz litigated that claim in state court and lost. *Ayers v. City of Richmond*, 895 F.2d 1267, 1270 (9th Cir. 1990); *Hullett v. Cousin*, 204 Ariz. 292 (2003).

Finally, Brown and Peltz have not shown that the district court was biased against them. Adverse rulings alone are insufficient to demonstrate bias, *Taylor v.*

Regents of the Univ. of Cal., 993 F.2d 710, 712–13 (9th Cir. 1993), and the district court identified and applied the proper legal standard at summary judgment.

AFFIRMED.[1]

[1] The motion to transmit an exhibit (Dkt. No. 20) is GRANTED.