[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 17-14151
Non-Argument Calendar

D.C. Docket No. 2:16-cv-01738-RDP

JOHN ARTHUR DAWSON,

Plaintiff - Appellant,

versus

BYRON JACKSON,
BRAD WATSON,
CITY OF LEEDS,

Defendants - Appellees.

Appeal from the United States District Court
for the Northern District of Alabama

(September 10, 2018)

Before MARTIN, JORDAN, and JILL PRYOR, Circuit Judges.

PER CURIAM:

The facts of the case are well known to the parties. In short, they are as follows.

The City of Leeds issued John Arthur Dawson a citation for allowing weeds, junk, inoperable motor vehicles, and debris to accumulate on his property. After some litigation of the citation, Mr. Dawson was found guilty of the citation in municipal court, and his appeal to the circuit court was dismissed. Accordingly, the City sent Inspection Superintendent Brad Watson to execute the municipal court's order to abate.

The video on which both parties rely reflects that, when Mr. Watson showed up at Mr. Dawson's home to execute the order, Mr. Dawson, evidently believing that the litigation was still in progress, objected to Mr. Watson's intent to do so. At some points, Mr. Dawson claimed he had already complied with municipal regulations sufficiently, such that there was nothing to do to execute the order. At others, he said that the Mr. Watson had no right to be on his property, and ordered him off of it "right now."

Mr. Dawson's car was blocking the fence that allowed access to his back yard: it was parked a few feet in front of the fence, and between the car and the fence lay some debris. Mr. Dawson refused to move his car as instructed. Several times, he stood against the back of his car (between his car and the street). Towards the end of an encounter that lasted at least 40 minutes, Mr. Watson called

over Chief of Police Byron Jackson and told him that Mr. Dawson was refusing to allow the City to enter his property. Leaning against the back of his car, Mr. Dawson confirmed that he would not move his car and would not consent to the entry of police officers into his backyard without a warrant. Chief Jackson placed Mr. Dawson under arrest for interfering with government operations. Mr. Dawson's son then moved Mr. Dawson's car, and City officials (with the son's help) began moving debris out of the way of the gate, then entered the back yard. Mr. Dawson was later released, and the City nolle prossed the charge against him.

As relevant here, Mr. Dawson sued Chief Jackson and Mr. Watson under 42 U.S.C. § 1983, alleging that he was falsely arrested. After a motion for summary judgment by the defendants on several grounds, the district court dismissed Mr. Dawson's claims against both Chief Jackson and Mr. Watson based, among other reasons, on the conclusion that qualified immunity shielded both defendants from liability. Mr. Dawson appealed on this ground and others. Deciding this one issue is sufficient to resolve this appeal.

Having reviewed the parties' arguments and the record, including the video that each side claims supports it, we conclude that the district court's summary judgment on the basis of qualified immunity was appropriate.

> A government official asserting a qualified immunity defense bears the initial burden of showing he was acting within his discretionary authority. [If he or she does so, or if the plaintiff concedes the point,] the burden shifts to [the plaintiff] to show that, when we view the facts in his favor, (1) [the

> government official] violated his constitutional right, and (2) this right was clearly established at the time of the alleged violation.

Cozzi v. Birmingham, 892 F.3d 1288, 1293 (11th Cir. 2018) (quotation marks and citations omitted).

If an officer has at least "arguable probable cause" for a warrantless arrest, he or she is qualifiedly immune from prosecution for false arrest. *See id.* "Arguable probable cause exists where reasonable officers in the same circumstances and possessing the same knowledge as the [d]efendant could have believed that probable cause existed to arrest." *Id.* "'Probable cause' is defined as 'facts and circumstances sufficient to warrant a prudent man in believing that the suspect had committed or was committing an offense.'" *Grider v. Auburn*, 618 F.3d 1240, 1257 (11th Cir. 2010).

The offense for which Chief Jackson arrested Mr. Dawson was obstruction of governmental operations. *See* Ala. Code § 13A-10-2(a). A person violates § 13A-10-2(a) if,

> by means of intimidation, physical force or [physical][1] interference or by any other independently unlawful act, he:
>
> > (1) Intentionally obstructs, impairs or hinders the administration of law or other governmental function; or
> >
> > (2) Intentionally prevents a public servant from performing a governmental function.

[1] *See D.A.D.O. v. State*, 57 So. 3d 798, 806 (Ala. Crim. App. 2009) ("the interference would have to be, in part at least, physical in nature").

Mr. Dawson's sole argument on appeal regarding the district court's qualified immunity decision is that the defendants arrested him without arguable probable cause. Specifically, his argument focuses on § 13A-10-2(a)'s introductory clause, which predicates the offense on "intimidation, physical force or interference or . . . any other independently unlawful act." Mr. Dawson says that any "interference" (or, as he puts it, "distraction") that he might have posed to Mr. Watson's and Chief Jackson's "commenc[ing] the abatement operation" was not "physical," as the law requires, so they had no reason to arrest him. *See* Opening Br. at 18-19.

In fact, case law—the very case law cited by Mr. Dawson—confirms that it was not "clearly established" that Mr. Dawson's behavior was insufficiently "physical" to provide an officer arguable probable cause. In *D.A.D.O.*, the Alabama Court of Criminal Appeals concluded that the defendant's "interference" did not meet the statute's "physicality" requirement because he was not, like defendants in prior cases, "belligerent, uncooperative, and refus[ing] . . . direct requests" to get out of the way of an officer who was attempting to carry out a governmental function. 57 So. 3d at 806 ("D.A.D.O. at no time made any physical movement, threat, or motion of violence, and his feelings were expressed only in words. Further, once the officer requested that D.A.D.O. leave the office, he complied, and the officer was able to obtain the information that he needed on the

three curfew violators.”). The sole relevant Eleventh Circuit case, *Grider v. Auburn*, 618 F.3d 1240 (11th Cir. 2010), accords with this principle. In *Grider*, we rejected a defendant police officer’s argument that he ought to have been granted qualified immunity; we noted that the plaintiff allegedly “told [the police officer] ‘nothing illegal was going on’ . . . , that the officers could enter the [premises], and that Grider preferred they not go in . . . . Thus, Grider did not prohibit any officers from entering the bar.” *Id*. at 1259.

Unlike the plaintiffs in *D.A.D.O.* and *Grider*, Mr. Dawson ordered the defendants off of his property, physically stood in their way, declined to move his car, and refused to comply with the instructions that they gave him based on their valid abatement order. Based on this behavior, Mr. Watson and Chief Jackson “could [reasonably] have believed that probable cause existed to arrest” Mr. Dawson for violation of § 13A-10-2(a).

The defendants make several other arguments, for example that Mr. Watson cannot be held liable for any impermissible behavior of Chief Jackson in arresting Mr. Dawson because he did not order the arrest. Because we conclude that the circumstances of the arrest do not overcome the qualified immunity defense, that is sufficient to justify dismissal as to both defendants, and we need not reach this or other issues that the parties raise.

AFFIRMED.