

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 18-12012
Non-Argument Calendar

D.C. Docket No. 2:16-cv-14560-DMM

CHARLES H. WIGGINS,

Plaintiff-Appellant,

versus

DERYL LOAR,
Sheriff, Indian River Sheriff's Office, et al.,

Defendants,

CHRISTOPHER RODRIGUEZ,
Deputy, Indian River Sheriff's Office,

Defendant-Appellee.

Appeal from the United States District Court
for the Southern District of Florida

(January 14, 2019)

Before ED CARNES, Chief Judge, MARCUS, and ROSENBAUM, Circuit Judges.

PER CURIAM:

Charles Wiggins was arrested, charged, and acquitted of being a felon in possession of firearms. He later filed suit under 42 U.S.C. § 1983 contending that Deputy Christopher Rodriguez violated his constitutional rights by arresting him with an invalid warrant. The district court granted summary judgment to Rodriguez. This is Wiggins' appeal.

I.

In 2013 Rodriguez executed a search warrant on Wiggins' home while Wiggins was away and discovered firearms. When Wiggins returned home, Rodriguez discovered through a post-Miranda statement that Wiggins was a convicted felon, so Rodriguez arrested Wiggins. The next day Wiggins, who had posted bail, discovered a search warrant that had been left at his home. He saw that while the warrant listed his address, it had a picture and description of his neighbor's property.

Wiggins was charged in Florida state court with possessing firearms as a convicted felon.¹ He moved to suppress evidence of the firearms discovered in his

¹ Wiggins was convicted of breaking and entering and auto theft in 1965 and for robbery in 1983. These convictions are not at issue.

home on the grounds that the warrant was invalid. After an evidentiary hearing, the state trial court declined to suppress the evidence because it found that while the warrant given to Wiggins contained an error, it did not prejudice him because the address was correct and that provided Wiggins with adequate notice. The trial court later directed a verdict in Wiggins' favor.²

Wiggins sued Rodriguez, Indian River County Sherriff Daryl Loar, State Prosecutor Michelle McCarter, and Public Defender Meredith Jones claiming that they violated his Fourth Amendment right to be free from unreasonable searches and seizures and that they maliciously prosecuted him. The district court dismissed Wiggins' claims against Loar, Jones, and McCarter because Wiggins failed to state a claim against them upon which relief could be granted. The court later granted Rodriguez's motion for summary judgment. Wiggins appeals the district court's order granting summary judgement.

II.

We review de novo a district court's decision to grant summary judgment, drawing "all reasonable inferences in the light most favorable to the non-moving party." Owen v. I.C. Sys., Inc., 629 F.3d 1263, 1270 (11th Cir. 2011). Summary judgment may be granted only if "there is no genuine issue as to any material fact

² The record does not show why the state court directed a verdict in Wiggins' favor. According to Wiggins' deposition testimony the court did so because he was not in the house when the firearms were discovered and so could not have been in possession of them.

and . . . the moving party is entitled to a judgment as a matter of law.” Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 247, 106 S. Ct. 2505, 2509–10 (1986) (quotation marks omitted). A genuine issue of material fact exists when “the evidence is such that a reasonable jury could return a verdict for the nonmoving party.” Id. at 248, 106 S. Ct. at 2510.

III.

Wiggins first contends that Rodriguez violated his Fourth Amendment right to be free from unreasonable searches and seizures. Rodriguez argues that Wiggins is collaterally estopped from bringing this claim because it has already been litigated in state court.

“This court reviews a district court’s conclusions on res judicata and collateral estoppel de novo and the legal conclusion that an issue was actually litigated in a prior action under the clearly erroneous standard.” Richardson v. Miller, 101 F.3d 665, 667–68 (11th Cir. 1996).

Collateral estoppel “refers to the effect of a judgment in foreclosing relitigation of a matter that has been litigated and decided.” Quinn v. Monroe Cty., 330 F.3d 1320, 1328–29 (11th Cir. 2003). We give preclusive effect to the final judgment of a state court if: “(1) the courts of the state from which the judgment emerged would do so themselves; and (2) the litigants had a full and fair opportunity to litigate their claims and the prior state proceedings otherwise

satisfied the applicable requirements of due process.” Id. Under Florida law a party is estopped from bringing a claim if “(1) an identical issue, (2) has been fully litigated, (3) by the same parties or their privies, and (4) a final decision has been rendered by a court of competent jurisdiction.” Id. Florida law recognizes an exception to the third requirement that an issue be litigated by the same parties or their privies in a criminal-to-civil context if the “issue forming the basis for a civil suit” has been “necessarily resolved” in the earlier criminal proceeding. Vazquez v. Metropolitan Dade County., 968 F.2d 1101, 1108 (11th Cir. 1992).

Wiggins fully litigated his Fourth Amendment claim in his state criminal proceeding and lost. To be sure, that proceeding did not involve the same parties or their privies. But Florida’s exception to this requirement is applicable here: the Fourth Amendment issue was necessarily resolved in Wiggins’ earlier criminal proceeding because it involved the validity of the state’s evidence that he possessed the firearms that formed the basis for the criminal charges. And Wiggins had a full and fair opportunity to litigate his claim in that state proceeding, which satisfies the requirements of due process. As the district court noted, Wiggins was assisted by appointed counsel and was given an evidentiary hearing in which he had a full and fair opportunity to litigate this issue before the state trial court. So Wiggins is collaterally estopped from bringing his Fourth Amendment claim.

IV.

Wiggins also contends that Rodriguez maliciously prosecuted him by fabricating a secondary warrant containing the correct property description. “To establish a federal malicious prosecution claim under § 1983, a plaintiff must prove (1) the elements of the common law tort of malicious prosecution, and (2) a violation of her Fourth Amendment right to be free from unreasonable seizures.” Kingsland v. City of Miami, 382 F.3d 1220, 1234 (11th Cir. 2004). We use the following four elements for the common law tort of malicious prosecution: “(1) a criminal prosecution [was] instituted or continued by the present defendant; (2) with malice and without probable cause; (3) that terminated in the plaintiff accused’s favor; and (4) caused damage to the plaintiff accused.” Grider v. City of Auburn, 618 F.3d 1240, 1256 (11th Cir. 2010).³

Wiggins has not presented a genuine issue of material fact as to whether Rodriguez acted with malice. He appears to argue that Rodriguez acted with malice by committing perjury and falsifying the secondary warrant that contained the correct property description. But Wiggins provided no evidence to support

³ The district court derived the common law elements of malicious prosecution from Florida law rather than federal law, but the substantive elements of malicious prosecution are the same under both federal and Florida law.

these conclusory claims and Rodriguez presented uncontroverted evidence that the secondary warrant was authentic. So we agree with the district court that “no evidence exists in the record which would raise a jury question on the issue of malice on the part of [Rodriguez].”

AFFIRMED.