

NONPRECEDENTIAL DISPOSITION

To be cited only in accordance with FED. R. APP. P. 32.1

United States Court of Appeals

**For the Seventh Circuit
Chicago, Illinois 60604**

Submitted April 28, 2023*

Decided April 28, 2023

Before

MICHAEL B. BRENNAN, *Circuit Judge*

MICHAEL Y. SCUDDER, *Circuit Judge*

AMY J. ST. EVE, *Circuit Judge*

No. 22-1899

MARVA CROWDER,
Plaintiff-Appellant,

v.

THOMAS BARRETT, et al.,
Defendants-Appellees.

Appeal from the United States District
Court for the Northern District of Illinois,
Eastern Division.

No. 17 C 0381

John Robert Blakey,
Judge.

ORDER

When Marva Crowder was in custody for domestic battery, he was interviewed about and then charged with an armed robbery that had happened two years earlier. After he was arraigned on both charges and given a substantial bond, he remained in pretrial detention for nearly four years until he pleaded guilty to the robbery. While in

* We have agreed to decide the case without oral argument because the briefs and record adequately present the facts and legal arguments, and oral argument would not significantly aid the court. FED. R. APP. P. 34(a)(2)(C).

jail, Crowder sued the prosecutor and three Chicago police officers involved in bringing the robbery charges under 42 U.S.C. § 1983 for unlawful detention in violation of the Fourth Amendment. The district court entered summary judgment for the defendants, concluding that, at all times before Crowder's guilty plea, there was probable cause to detain him and that the prosecutor was entitled to absolute immunity. We affirm.

Background

The district court deemed most of the defendants' proposed facts undisputed because of Crowder's noncompliance with local rules, and so we recount the facts accordingly, still viewing them in the light most favorable to Crowder. *McCurry v. Kenco Logistics Servs., LLC*, 942 F.3d 783, 786–87 (7th Cir. 2019).

In February 2013, two people—one visibly armed with a handgun—robbed a RadioShack store in Chicago, stealing tablets, gaming systems, cell phones, other electronic equipment, and cash. One of the bags the robbers filled contained a GPS tracker, which police officers used to track the bag to a gas station and then a house. There, after obtaining the homeowner's consent to search, they found stolen electronic equipment in a RadioShack bag as well as two jackets matching the robbers'. Crowder was at the house during the search, and an officer later recognized him when viewing the gas station's surveillance video from the night of the robbery. A RadioShack employee who had been forced into a bathroom by the robbers identified Crowder in a photo array. Nearly two years later, a state forensic lab notified one of the investigating officers, Detective Thomas Barrett, that one of the jackets worn during the robbery contained Crowder's DNA. Barrett created an investigative alert for Crowder with the notation, "no probable cause for arrest."

About two months later, another Chicago police officer notified Barrett that Crowder was in custody for domestic battery. Barrett requested that Crowder be transferred to a different police station, where he interviewed Crowder about the RadioShack robbery. When the interview continued the next day, Barrett was joined by Mark Griffin, an Assistant State's Attorney from the Felony Review Unit, which evaluates evidence to determine whether to approve felony charges. Crowder denied robbing the RadioShack, as he had the previous day. According to Crowder, the interview was contentious, and at the end, Griffin said to Barrett: "Fuck it. Do whatever you want to this guy." Later that evening, the RadioShack employee viewed a lineup and identified Crowder as one of the robbers. Barrett and another detective, Daniel Freeman, observed the procedure, which another police officer conducted.

After the detectives informed him about the positive identification, Griffin approved charging Crowder for the robbery. Thomas Giudice, a police sergeant, authorized Barrett to seek judicial approval to hold Crowder in the meantime; Barrett obtained that leave. After Giudice signed a final approval, Barrett, with Freeman witnessing, signed a criminal complaint against Crowder for the armed robbery. (Crowder contends that the complaint is false and should have been signed by the victim.) The charges for the robbery and domestic battery were filed under the same criminal case number. At a preliminary hearing five days later, a judge found probable cause to believe that Crowder robbed the RadioShack. Crowder remained in custody for nearly four years until he pleaded guilty to armed robbery. The battery charge was dismissed two years after Crowder was released from custody.

During his pretrial detention, Crowder sued Griffin, Barrett, Giudice, Freeman, and various government entities for violating his rights under the Fourth, Sixth, and Fourteenth Amendments. He alleged that Griffin's outburst after the interview was prosecutorial misconduct that influenced the officers to pursue unlawful charges. He also asserted that Barrett and Freeman signed a fraudulent criminal complaint for the robbery victim, and that Giudice approved the charges despite being aware of the others' unlawful conduct. Crowder would later clarify that he believed his detention was unlawful because he was never formally arrested or indicted for robbery, because the joinder of the robbery and domestic battery cases was procedurally improper under state law and meant to prolong his detention, and because Barrett violated state law when signing the criminal complaint on behalf of the RadioShack employee. At screening under 28 U.S.C. § 1915A, the district court dismissed the institutional defendants and any claim under the Sixth or Fourteenth Amendment.

After discovery, the police officers and Griffin separately moved for summary judgment. (By this time, Crowder was out of jail.) In his response, Crowder noted disagreement with much of the defendants' joint statement of undisputed facts. He also filed three motions to deny their summary judgment motions as a sanction because, he asserted, the defendants perjured themselves in their declarations. Crowder maintained that details in the declarations, such as the existence of an "arrest" report about the robbery, what time charges were filed, and the source of Griffin's authority, conflicted with other evidence. The district court clarified that Crowder sought both denial of the defendants' motions for summary judgment and penalties against the defendants for violating 18 U.S.C. § 1623, which criminalizes perjury.

In its order addressing the pending motions, the district court first concluded that Crowder's allegations of perjury were unfounded and stated that the court could not initiate perjury charges itself. It then explained that, though Crowder had objected to the defendants' proposed facts, his responses failed to comply with Northern District of Illinois Local Rule 56.1: his assertions either lacked citations to the record, were unsupported by the cited material, or were "irrelevant, argumentative, or consisting of legal arguments or mere conclusory statements." Therefore, the court accepted the defendants' statement of facts as undisputed but said that it would credit any facts that Crowder properly supported.

On the merits, the court concluded first that there was no evidence that the criminal complaint was fraudulent or that the defendants violated state or federal law in drafting, witnessing, and approving it. Second, it determined that probable cause existed to detain Crowder for the RadioShack robbery, and the lack of an arrest warrant or indictment for the robbery was irrelevant because Crowder was already in custody when grounds to arrest him for armed robbery arose. Third, it held that Griffin had absolute prosecutorial immunity for his actions. Crowder appeals.

Analysis

We begin with Crowder's challenges to the rulings discounting his version of the facts and denying sanctions, both of which we review for abuse of discretion. *Curtis v. Costco Wholesale Corp.*, 807 F.3d 215, 219 (7th Cir. 2015); *Tobey v. Chibucos*, 890 F.3d 634, 652 (7th Cir. 2018). As to the local rules violation, Crowder argues that his assertions contradicting the defendants' facts should have been credited despite the lack of citations to admissible evidence because the defendants knew where to find the support. But when disputing the defendants' proposed facts, Crowder was "required to provide the admissible evidence that supports his denial in a clear, concise, and obvious fashion, for quick reference of the court." *Curtis*, 807 F.3d at 219 (emphasis added). That the defendants might be able to locate evidence for his disputes does not mean the district court could—or should have to. Crowder also argues that some of his facts were properly cited. But the district court thought so too, and it said it would credit those assertions. Thus, the district court did not abuse its discretion when it enforced the local rule and rejected Crowder's uncited facts. See *Igasaki v. Ill. Dep't of Fin. & Prof. Regul.*, 988 F.3d 948, 956–57 (7th Cir. 2021).

Nor did the district court abuse its discretion when it refused to sanction the defendants. The criminal perjury statute provides authority for criminal charges, not procedural sanctions, and the district court correctly explained that it could not initiate

a criminal prosecution (a predicate to any penalty under the statute).¹ See *United States v. Nixon*, 418 U.S. 683, 693 (1974). The court also reasonably found Crowder’s assertions of lying unpersuasive. Crowder’s chief complaint was that the defendants’ declarations contradicted their reply to his additional statement of facts, but only a purposely strained reading of their reply would create the contradictions that Crowder asserts. (For example, Crowder construes the defendants’ denials that certain events happened at a particular time as denials that the events happened at all.) Therefore, the court did not abuse its discretion when it denied this motion.

Crowder’s substantive challenges to the summary judgment ruling are also meritless. We review the decision *de novo*. *Pierner-Lytge v. Hobbs*, 60 F.4th 1039, 1043 (7th Cir. 2023). We begin by affirming the dismissal of all claims against Griffin, the Assistant State’s Attorney, based on prosecutorial immunity. Prosecutors are entitled to absolute immunity for acts taken within the scope of their prosecutorial role. *Greenpoint Tactical Income Fund LLC v. Pettigrew*, 38 F.4th 555, 565–66 (7th Cir. 2022). Crowder argues that Griffin engaged in investigative acts, which are not covered by absolute immunity, when he authorized the robbery charge and combined it (allegedly improperly) with the domestic battery case. But determining whether and how to charge crimes is a quintessential decision for which a prosecutor enjoys absolute immunity—even if he errs. *Anderson v. Simon*, 217 F.3d 472, 475–76 (7th Cir. 2000). And to the extent that Crowder suggests that attending his custodial interview was an “investigative” act, this was part of Griffin’s felony-review role, and evaluating the evidence to make a charging decision is still prosecutorial. See *Bianchi v. McQueen*, 818 F.3d 309, 318 (7th Cir. 2016). Griffin was not involved in Crowder’s case before or after the authorization stage. See *id.*

What remains is Crowder’s claim that he was unlawfully detained while awaiting trial for the robbery charge because he was initially arrested for another offense and because the way charges were initiated (Barrett signing the complaint and the joinder of the two charges) violated state law. Claims of unlawful pretrial detention all fall under the Fourth Amendment. *Manuel v. City of Joliet*, 137 S. Ct. 911, 917–19 (2017); *Lewis v. City of Chicago*, 914 F.3d 472, 479 (7th Cir. 2019) (due process clause does not apply to unlawful detention claims). Arrest and detention are seizures under the

¹ Crowder does not argue on appeal that the court could have construed the motion as one requesting sanctions under Rules 11 or 56(h) of the Federal Rules of Civil Procedure. He continues to insist, as he did in a “motion clarifying perjury motions” in the district court, that the defendants’ actions were criminal.

Fourth Amendment and therefore must be justified by probable cause for their entire duration. *Lewis*, 914 F.3d at 476–77.

Crowder appears to argue that his detention both before and after his arraignment violated his rights under the Fourth Amendment. We treat these as separate claims. *See Manuel*, 137 S. Ct. at 919. As to his pre-arraignment detention, Crowder concedes that there was “lawful authority” to detain him for the domestic battery but argues that his transfer to another precinct in furtherance of the robbery investigation was a separate seizure that required new probable cause. But it is “plainly wrong” that moving a person already in custody is a new seizure because a seizure occurs when freedom of movement is lost, and that loss is complete when a person is taken into custody. *See Swanigan v. City of Chicago*, 881 F.3d 577, 584 (7th Cir. 2018).

Nor did Crowder’s post-arraignment detention violate his Fourth Amendment rights. A person’s continued detainment even after a probable-cause determination can violate the Fourth Amendment if the legal process itself went wrong, such as when the determination “is predicated solely on a police officer’s false statements.” *Manuel*, 137 S. Ct. at 918–19. Crowder primarily argues that the legal process went wrong here because the defendants violated various state laws in drafting the criminal complaint. The district court concluded that the defendants did not violate the state laws Crowder cited. But even if they had, the Fourth Amendment has its own independent requirements; a violation of state law “is completely immaterial as to the question of whether a violation of the federal constitution has been established.” *Thompson v. City of Chicago*, 472 F.3d 444, 454 (7th Cir. 2006). And Crowder has not attempted to demonstrate that his seizure was unreasonable apart from what he believes were procedural irregularities under state law.²

Here, Crowder’s pretrial detention was supported by probable cause irrespective of any procedural irregularities that he alleges. *See Manuel*, 137 S. Ct. at 918–19; *Lewis*, 914 F.3d at 479. Crowder was found at the home with the stolen goods, an officer recognized him from surveillance video on the night of the robbery, the RadioShack

² We do not rely on the defendants’ alternate argument that Crowder was in custody for domestic battery the entire time he awaited trial for the robbery, and therefore any unlawful act with respect to the robbery charge did not cause his detention. The defendants did not demonstrate that Crowder would have been in custody with the same bond on only the domestic battery charge; he was arraigned on both charges simultaneously and the bond was based on both charges.

employee identified him in a photo array shortly after the robbery and in a lineup years later, and Crowder's DNA was found on a coat matching one worn during the robbery. Crowder cannot undo this ample probable cause for his seizure by pointing to supposed errors in the criminal complaint or the joinder of charges.

Finally, to the extent that Crowder intends to argue that he was unfairly prosecuted, that argument must fail because his robbery charge ended in a conviction that has not been overturned. *See Thompson v. Clark*, 142 S. Ct. 1332, 1341 (2022).

We have considered Crowder's remaining arguments, and none has merit.

AFFIRMED