

United States Court of Appeals  
For the Eighth Circuit

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No. 23-2642

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Christopher Lockhart

*Plaintiff - Appellee*

v.

Siloam Springs, Arkansas; Detective Zachary Ware

*Defendants - Appellants*

James Wilmeth; Allan Gilbert; Chase Fine;  
Tiffany Adams; Mike Efram; David Bailey

*Defendants*

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Appeal from United States District Court  
for the Western District of Arkansas - Fayetteville

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Submitted: April 10, 2024

Filed: August 26, 2024

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Before LOKEN, MELLOY, and KOBES, Circuit Judges.

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LOKEN, Circuit Judge.

Around 3:30 AM on March 11, 2019, a dark and rainy morning, Christopher Lockhart, a licensed Arkansas bail bondsman and private investigator, was driving

home along Highway 412 in Siloam Springs from a casino where he and an associate had looked for bonded clients who jumped bail. Though Lockhart was traveling ten miles per hour under the Highway 412 speed limit, he was stopped by Siloam Springs police officer Zachary Ware for alleged traffic violations. Lockhart was then arrested and charged with driving while impaired (“DWI”), careless driving, and driving left of center. After Lockhart refused prosecutor David Bailey’s offer to drop the DWI charge if Lockhart pleaded guilty to the traffic charges, Bailey dismissed the traffic charges and brought the DWI charge to trial, but did not present evidence supporting the charge. The trial court found Lockhart not guilty of DWI.

Lockhart then filed this § 1983 action against eight defendants. The lengthy Complaint asserts unreasonable stop and detention claims against Officer Zachary Ware in his individual and official capacities; unlawful arrest, detention, prosecution, and civil conspiracy claims under § 1983 and the Arkansas Civil Rights Act<sup>1</sup> against Ware and three other Siloam Springs police officers in their individual and official capacities, and Police Chief Allan Gilbert in his official capacity; state law abuse of process claims against these defendants; and state law malicious prosecution claims against Siloam Springs and prosecutor Bailey in his official capacity.

Defendants moved for summary judgment on all claims, arguing they did not violate Lockhart’s rights and, if his rights were violated, they are entitled to qualified immunity. Lockhart withdrew the civil conspiracy and abuse of process claims, which the district court dismissed without prejudice. In a lengthy Opinion and Order, the court granted defendants summary judgment on all but two claims -- Lockhart’s

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<sup>1</sup>Before the district court, the parties agreed that the same analysis applies for Lockhart’s § 1983 and ACRA claims, so the district court treated the two claims together. Treating these claims together is consistent with our precedent. See McDaniel v. Neal, 44 F.4th 1085, 1093 (8th Cir. 2022). We will likewise address them together under our standard for § 1983 claims involving violations of the Fourth Amendment.

illegal stop and false arrest claims against Officer Ware, and the malicious prosecution claim against Siloam Springs (the only defendant on this claim because prosecutor Bailey was sued in his official capacity).

The district court concluded that genuine disputes of material fact precluded granting Officer Ware summary judgment on Lockhart's illegal stop and false arrest claims: Lockhart denied crossing the centerline before Officer Ware pulled him over, and the weather-affected dashboard camera video did not conclusively establish Officer Ware's testimony that Lockhart crossed the line. This created a genuine fact dispute whether Ware had probable cause to stop Lockhart for driving left of center, or for careless driving because weaving within one's own lane is not careless driving under Arkansas law. Nor does weaving provide reasonable suspicion the driver is substance impaired. The court concluded it was clearly established in March 2019 that a traffic stop violates the Fourth Amendment unless the officer has at least reasonable suspicion that criminal activity is afoot.

The court also denied Siloam Springs summary judgment on Lockhart's malicious prosecution claim. Relying on its analysis of the § 1983 claims against Officer Ware, the court concluded there is a material fact dispute whether prosecutor Bailey had probable cause to try Lockhart for DWI, Lockhart presented enough evidence supporting the elements of a malicious prosecution claim under Arkansas law, and Arkansas statutory immunity does not apply to intentional torts like malicious prosecution.

Officer Ware and Siloam Springs appeal this interlocutory order. We have jurisdiction to review issues of law *de novo* when denial of summary judgment based upon qualified immunity is appealed. See, e.g., Ferguson v. Short, 840 F.3d 508, 510 (8th Cir. 2016). Concluding the district court erred in determining there is a genuine material fact dispute whether Officer Ware had probable cause to stop Lockhart's car for a careless driving traffic violation, we reverse in part and remand.

## **I. Background**

Officer Ware first noticed Lockhart's car traveling in the opposite direction on Highway 412 at about 10 mph under the speed limit. Officer Ware turned his police cruiser around and began following. The police car dashboard camera video shows that Officer Ware followed Lockhart for about three minutes, with his windshield wipers active. Lockhart's car twice weaved slightly within its lane. When they came to a curve in the road, the video shows Lockhart's driver side tires touching the yellow line separating his lane from a center turn lane. The parties dispute whether his tires fully crossed the yellow line. After both vehicles exited the curve, Officer Ware activated the lights on his police car to initiate a traffic stop. Lockhart promptly pulled onto the shoulder and stopped. Officer Mike Efram arrived shortly after the stop began. Officer Ware's dashboard camera continued filming the stop.

Officer Ware exited his vehicle and approached Lockhart. The two spoke for several minutes while Lockhart remained seated in his vehicle. Ware asked Lockhart for his license and registration. According to Officer Ware, Lockhart's eyes were bloodshot and droopy, his speech was slightly slurred, and he appeared to be falling asleep. Ware asked Lockhart to exit his vehicle and then administered field sobriety tests for about twelve minutes. According to Officer Ware, Lockhart failed these tests and showed fourteen out of eighteen indicators of impairment. Officer Ware arrested Lockhart on suspicion of driving while impaired. Lockhart denies being impaired.

At the police station, Lockhart submitted to blood alcohol concentration ("BAC") and urine tests. Lockhart's BAC was 0.00. Detective Tiffany Adams came to the station, conducted a Drug Recognition Expert Evaluation, and put Lockhart through a series of sobriety tests. Detective Adams concluded that Lockhart was a "medical rule out" -- his poor performance on the sobriety tests was due to medical issues, not impairment. Officer Ware nonetheless charged Lockhart with DWI and two traffic violations, driving left of center and careless driving.

## II. The Initial Stop

“The doctrine of qualified immunity protects government officials from liability for civil damages insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known.” Pearson v. Callahan, 555 U.S. 223, 231 (2009) (quotation omitted). “In a § 1983 action, an officer is entitled to qualified immunity unless: (1) the officer’s conduct violated a constitutional right, and (2) that right was clearly established.” Ching ex rel. Jordan v. City of Minneapolis, 73 F.4th 617, 620 (8th Cir. 2023). We have discretion to choose which of the two elements to address first. See Pearson, 555 U.S. at 236. “We review *de novo* the district court’s denial of summary judgment based on qualified immunity.” New v. Denver, 787 F.3d 895, 899 (8th Cir. 2015). We construe the facts in the light most favorable to Lockhart, the non-moving party. See K.W.P. v. Kan. City Pub. Schs., 931 F.3d 813, 821 (8th Cir. 2019). “Put simply, qualified immunity protects all but the plainly incompetent or those who knowingly violate the law.” Mullenix v. Luna, 577 U.S. 7, 12 (2015) (quotation omitted).

The Fourth Amendment shields citizens from “unreasonable searches and seizures.” A traffic stop is a seizure under the Fourth Amendment. “A police officer may stop a vehicle if he has an objectively reasonable basis to believe that the driver has committed a traffic violation.” United States v. Rutledge, 61 F.4th 597, 600-01 (8th Cir. 2023); see Garcia v. City of New Hope, 984 F.3d 655, 664-65 (8th Cir. 2021). “It is well established that mistakes of law or fact, if objectively reasonable, may still justify a valid stop.” Rutledge, 61 F.4th at 602 (quotation omitted). Witnessing even a minor traffic violation gives an officer probable cause to stop the violator; “any ulterior motivation on the officer’s part is irrelevant.” Johnson v. Crooks, 326 F.3d 995, 998 (8th Cir. 2003) (quotation omitted). Reasonable suspicion that the driver is operating a vehicle while intoxicated justifies an investigatory stop of the vehicle. Williams v. Decker, 767 F.3d 734, 739 (8th Cir. 2014). The officer “may detain a person for investigation without probable cause to arrest when the

officer ‘has a reasonable suspicion supported by articulable facts that criminal activity may be afoot.’” United States v. Morgan, 729 F.3d 1086, 1089 (8th Cir. 2013), quoting United States v. Sokolow, 490 U.S. 1, 7 (1989).

Chapter 51 of the Arkansas Code governs “Operation of Vehicles -- Rules of the Road.” Its general provisions include a careless driving statute that prohibits operation of “any vehicle . . . in such a manner as to evidence a failure to maintain proper control” on a public highway or private property. Ark. Code Ann. § 27-51-104(a). The Driving, Overtaking, and Passing subchapter provides that vehicles are to be driven on the right half of the roadway unless an exception applies, § 27-51-301, and that, when a road is divided into two or more clearly marked lanes, “[a] vehicle shall be driven as nearly as practical entirely within a single lane and shall not be moved from the lane until the driver has first ascertained that movement can be made with safety.” § 27-51-302(1).

Defendants argue, as they did in the district court, that the record -- Officer Ware’s testimony plus the dashcam video -- establishes that Officer Ware had probable cause to stop Lockhart for careless driving and driving left of center. Lockhart responded that he did not cross the center line. The district court concluded the dashcam video “is unhelpful because it is obscured by the rain and light,” and therefore “the parties’ competing versions of the facts” preclude resolving, at the summary judgment stage, “whether Officer Ware had probable cause to stop Mr. Lockhart for driving left of center . . . . Further, under the careless driving statute, weaving in one’s lane is not failing to maintain control.”

We have reviewed the dashcam video that recorded, from some distance away, Lockhart’s vehicle as it negotiated the highway curve on a dark and rainy morning. We agree with the district court the video does not “blatantly contradict” Lockhart’s assertion that his car never fully crossed the centerline “so that no reasonable jury could believe [his assertion].” Scott v. Harris, 550 U.S. 372, 380 (2007). Thus, this

is a genuinely disputed fact at the summary judgment stage. But is the disputed fact material? Whether Lockhart fully crossed the centerline is disputed, but it is undisputed his tires touched the line as he rounded the curve, before Officer Ware's traffic stop. The district court found this fact undisputed, and Lockhart conceded it in his response in opposition to the Defendants' summary judgment motion. So is touching but not crossing the centerline enough to provide Officer Ware "an objectively reasonable basis to believe that the driver has committed a traffic violation?" This requires analysis of the careless driving statute that the district court did not undertake; it simply cited an Arkansas Court of Appeals decision that we find to be factually irrelevant.

The Arkansas Court of Appeals directly addressed this question in Baker v. State, 640 S.W.3d 431 (Ark. App. 2022), a case not cited by either party or the district court. In Baker, an officer stopped a vehicle when he twice observed the driver cross, or at least touch, the outside fog line of a marked traffic lane. The stop led to arrest and prosecution of the driver for DWI. After the trial court denied the driver's motion to suppress because the officer allegedly lacked probable cause for the stop, the driver pleaded guilty and appealed this ruling, admitting she had driven on the fog line but arguing that merely driving on the line did not provide probable cause for a stop. Id. at 432-33. The appellate court affirmed, concluding "that driving on the fog line is not maintaining the car 'entirely within' the lane and does not evidence control of the vehicle." Id. at 433. Therefore, even briefly driving on the fog line is careless driving giving the officer probable cause to initiate a traffic stop. The court expressly distinguished its earlier "weaving in one's lane" case on which the district court relied. Of significance to this appeal, the court also made clear that its reasoning applies when a driver's vehicle drives on a yellow centerline:

As the State contends, if a highway is comprised of the entire width between the boundary lines, then the lines themselves must be outside the permissible lane of travel because, logically, the "boundary" cannot

*be the outer edge of the line. If that were the case, two vehicles could be traveling on the center yellow line heading in opposite directions and both be within their respective lanes but would collide head on.*

Id. at 434 (emphasis added).

We conclude that the Supreme Court of Arkansas would adopt this interpretation of the careless driving statute if presented the issue. Therefore, based on Baker and the undisputed fact that Lockhart drove on the yellow centerline before Officer Ware stopped him, we conclude that Officer Ware had probable cause or at least an objectively reasonable basis to believe that Lockhart had violated the careless driving statute. At most, Officer Ware made an objectively reasonable mistake of law in applying the careless driving statute. His initial stop was constitutionally valid under the Fourth Amendment. We need not address Defendants' alternative arguments for upholding the initial stop.

Validity of the initial stop does not establish that Lockhart's subsequent arrest on suspicion of DWI and DWI prosecution were also valid. These issues depend in significant part on what occurred between the time Officer Ware initiated the stop and when he arrested Lockhart after sobriety testing. These issues were briefed and argued, but the district court in its Opinion and Order denying summary judgment did not address what occurred after the initial stop. Now that we have determined the initial stop was valid, the district court should have the first opportunity to address other issues that could affect whether Defendants sued in their individual capacities are entitled to qualified immunity on Lockhart's § 1983 claims. We therefore remand the case to the district court.



### III. Malicious Prosecution Claim against Siloam Springs

Defendants argue the district court erred in denying tort immunity and summary judgment on Lockhart’s state law malicious prosecution claim. Our jurisdiction to review state law claims presented with an interlocutory qualified immunity appeal is limited to claims that are “inextricably intertwined” with the qualified immunity issue or that present the narrow legal issue whether “the district court properly denied a state entity or its agent immunity from suit.” Davis v. Dawson, 33 F.4th 993, 1001 (8th Cir. 2022) (quotations omitted). Here, Defendants do not argue Lockhart’s malicious prosecution claim is “inextricably intertwined” with his § 1983 claims, and rightly so. Our ruling that the initial stop was constitutionally valid does not establish lack of probable cause to prosecute Lockhart for DWI. See Lockridge v. Bd. of Trs. of Univ. of Ark., 315 F.3d 1005, 1012 (8th Cir. 2003).

Defendants argue the district court erred in denying statutory immunity under Ark. Code Ann. § 21-9-301, which provides that political subdivisions of the state are “immune from liability and from suit for damages except to the extent that they may be covered by liability insurance,” and that “[n]o tort action shall lie against any such political subdivision because of the acts of its agents and employees.” Ark. Code Ann. § 21-9-301(a) and (b). Defendants concede that this statute provides state agents “with immunity from civil liability for negligent, but not intentional, acts.” Sullivan v. Coney, 427 S.W.3d 682, 685 (Ark. 2013). Lockhart argues that malicious prosecution is an intentional tort, citing Kellerman v. Zeno, 983 S.W.2d 136, 141 (Ark. App. 1998). Defendants cite no contrary authority. The district court did not err in denying summary judgment on this claim.

The Opinion and Order of the district court dated June 22, 2023 is reversed in part and remanded for further proceedings not inconsistent with this opinion.