# STATE OF WEST VIRGINIA
# SUPREME COURT OF APPEALS

**Bradley Scott Knotts,**
**Plaintiff Below, Petitioner**

**vs) No. 11-0446** (Taylor County 10-C-43)

**Loren Knotts, II,**
**Defendant Below, Respondent**

**FILED**
**April 13, 2012**
RORY L. PERRY II, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA

## MEMORANDUM DECISION

Petitioner Bradley Scott Knotts, plaintiff below, appeals the Circuit Court of Taylor County's February 15, 2011, "Final Order" granting summary judgment in favor of Respondent, Loren Knotts, II, defendant below.[1] Petitioner appears by counsel LaVerne Sweeney. Respondent appears by counsel Gary E. Pullin and Wendy E. Greve.

This Court has considered the parties' briefs and the record on appeal. The facts and legal arguments are adequately presented, and the decisional process would not be significantly aided by oral argument. Upon consideration of the standard of review, the briefs, and the record presented, the Court finds no substantial question of law and no prejudicial error. For these reasons, a memorandum decision is appropriate under Rule 21 of the Revised Rules of Appellate Procedure.

On May 25, 2009, acting in his capacity as a corporal with the West Virginia State Police, respondent arrested petitioner. Respondent asserts that he was acting pursuant to a warrant for petitioner's arrest, that respondent believed the warrant to be valid, and that it is undisputed that the warrant appeared valid on its face. However, in actuality, the charges against petitioner had been dismissed and the warrant had been recalled on February 10, 2009.

Petitioner sued respondent for false arrest and false imprisonment. By order of February 15, 2011, the circuit court granted summary judgment for respondent on the basis of qualified immunity. Police officers are entitled to qualified or "good faith" immunity from individual liability for conduct arising during the performance of their official duties. *Goines v. James*, 189 W.Va. 634, 637, 433 S.E.2d 572, 575 (1993), citing *Harlow v. Fitzgerald*, 457 U.S. 800, 815 (1982). Police officers are "shielded 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." *Goines*, 189 W.Va. at 637, 433 S.E.2d at 575, quoting *Harlow*, 457 U.S. at 818. The circuit court found that

[1] The fact that both parties have the same last name is apparently a coincidence.

respondent reasonably believed that he had a valid warrant for the arrest of petitioner, and that respondent was carrying out his official duties as a police officer when he made the arrest. The circuit court found that because respondent executed a facially valid warrant, there was no "false arrest" and respondent did not violate any clearly established right of which a reasonable person would have known.

We review a circuit court's entry of summary judgment under a de novo standard of review. Syl. Pt. 1, *Painter v. Peavy*, 192 W.Va. 189, 451 S.E.2d 755 (1994). Upon a careful review of the parties' briefs and the record on appeal, we conclude that the circuit court correctly granted summary judgment in favor of respondent. We adopt and incorporate by reference the circuit court's well-reasoned "Final Order" entered February 15, 2011.

For the foregoing reasons, we affirm.

Affirmed.

**ISSUED:** April 13, 2012

**CONCURRED IN BY:**

Chief Justice Menis E. Ketchum
Justice Robin Jean Davis
Justice Brent D. Benjamin
Justice Margaret L. Workman
Justice Thomas E. McHugh

11-0446

IN THE CIRCUIT COURT OF TAYLOR COUNTY, WEST VIRGINIA

**BRADLEY SCOTT KNOTTS,**

**Plaintiff,**

**v.** **Civil Action No. 10-C-43**
**Judge Alan D. Moats**

**LOREN KNOTTS, II,**

**Defendant.**

ENTERED OF RECORD

FEB 15 2011

Civil ORDER BOOK
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**FINAL ORDER**

On the 13th day of January, 2011, the Court conducted a hearing on Defendant Loren Knotts' Motion for Summary Judgment. The Defendant appeared by counsel, Gary E. Pullin, Esquire, and Tim J. Yianne, Esquire. The Plaintiff appeared by counsel, Laverne Sweeney, Esquire.

Having heard the arguments of counsel, and having also considered the memorandums filed by counsel in support of their respective positions, the Court **GRANTS** Defendant's Motion for Summary Judgment based on the following grounds.

## I. FINDINGS OF FACTS

1. On or about October 26, 2008, Lt. Randall Durrett of the Taylor County Sheriffs' Department received a complaint that Plaintiff was on US Route 119 South near the McVicker's Farm lying on the side of the road. (*See Criminal Complaint dated 11/7/08*).[1] When Lt. Durrett arrived at the scene, Plaintiff allegedly opened his coat revealing a concealed knife that was approximately six inches in length. According to the *Criminal Complaint*, Lt. Durrett believed that Plaintiff was "attempting to retrieve" the knife and "possibly use it against this officer."

[1] The Court notes that the documents referenced herein were attached as Exhibits to Defendant's Memorandum of Law in Support of Summary Judgment and/or Plaintiff's Opposition to Motion for Summary Judgment.

Moreover, according to the *Criminal Complaint*, Plaintiff became "combative and attempted to pull away" which resulted in Plaintiff being arrested by Lt. Durrett for the criminal offenses of obstructing/resisting officer and carrying a concealed weapon. Lt. Durrett took the Plaintiff into custody and processed him. *Id.*

2. On November 7, 2008, Lt. Durrett filed the *Criminal Complaint* against Plaintiff in the Magistrate Court of Taylor County for obstructing/resisting officer (08M-475) and carrying a concealed weapon (08M-476). On the same day, a magistrate judge found probable cause and issued a warrant for Plaintiff's arrest.

3. A few months later, on February 10, 2009, the prosecutor filed a motion asking that the charges for obstructing/resisting officer (08M-475) and carrying a concealed weapon (08M-476) be voluntarily dismissed because Plaintiff was being sent to the Weston State Hospital for mental evaluation. (*See Magistrate Ruling dated 2/10/09*). On the same day, the warrant for Plaintiff's arrest was recalled. (*See Arrest Warrant Recall Order dated 2/10/09*). However, the Recall Order was not disseminated to law enforcement agencies.

4. On Memorial Day, May 25, 2009, Plaintiff was observed and subsequently taken by law enforcement officers of the Taylor County Sheriffs' Department to the police station at 220 West Main Street, Grafton, West Virginia because it was believed that the prior warrant issued for Plaintiff's arrest was still in force. Plaintiff disputes that he was taken into custody by law enforcement. Instead, Plaintiff contends that he voluntarily went to the police station to find out why the police were looking for him. (*See Plaintiff's Affidavit dated 1/5/11*). Regardless of how and why Plaintiff ended up at the police station, there is no dispute that Plaintiff ended up at the police station at 220 West Main Street, Grafton, West Virginia.

5. While Plaintiff was at the police station, Cpl. Knotts received a phone call from the City of Grafton Police Department asking him to arrest Plaintiff pursuant to what was believed to be an outstanding warrant. (*See Affidavit of Cpl. Loren Knotts, II*). When he arrived at the police station, Cpl. Knotts was provided a warrant originally issued on November 7, 2008 which commanded the arrest of the Plaintiff. *Id.* Because it was a holiday, the City of Grafton Police Department contacted the Harrison County 911 center for any outstanding warrants for the plaintiff and received the arrest warrant from the Harrison County 911 Center via facsimile on May 25, 2009. (*See Warrant for Arrest*). There was nothing on the warrant received from the 911 center to indicate that the warrant had been recalled or was not otherwise valid.

6. Pursuant to the arrest warrant, Cpl. Knotts arrested Plaintiff on May 25, 2009. (*See Affidavit of Cpl. Loren Knotts, II*). Cpl. Knotts had no knowledge that the arrest warrant had been recalled. Moreover, the Harrison County 911 Center still had the arrest warrant as active in its records.

7. Plaintiff was transported to the Tygart Valley Regional Jail. On the evening of May 25, 2009, he was released from the Tygart Valley Regional Jail. It was not until Cpl. Knotts was served with a copy of the Civil Complaint in this civil action on June 2, 2010, that he became aware that Plaintiff was claiming that he was arrested based upon an invalid arrest warrant. (*See Affidavit of Cpl. Loren Knotts, II*).

8. Plaintiff does not dispute that the arrest warrant was facially valid.

9. Based on the foregoing, Plaintiff has asserted two claims against Cpl. Knotts of the West Virginia State Police: (1) false arrest; and (2) false imprisonment.

## II. CONCLUSIONS OF LAW

1. Cpl. Knotts argues that he is entitled to qualified immunity from Plaintiff's claims of false arrest and false imprisonment because the alleged misconduct arises from his performance of official duties as a West Virginia State Trooper pursuant to a facially valid arrest warrant. Therefore, the Court must analyze the doctrine of qualified immunity.

### A. Legal Framework

2. Under the doctrine of qualified immunity, government officials are not subject to liability for civil damages for conduct that "does not violate clearly established statutory or constitutional rights of which a reasonable person would have known." *See* Harlow v. Fitzgerald, 457 U.S. 800, 818, 102 S. Ct. 2727, 73 L. Ed. 2d 396 (1982). In Saucier v. Katz, 533 U.S. 194, 201, 121 S. Ct. 2151, 150 L. Ed. 2d 272 (2001), the Supreme Court of the United States established a rigid two-step sequence for determining a defendant's entitlement to qualified immunity. First, "a court must decide whether the facts that a plaintiff has alleged (*see* Fed. R. Civ. P. 12 (b)(6), (c)) or shown (*see* Fed. R. Civ. P. 50, 56) make out a violation of a constitutional right. Second, if the plaintiff has satisfied this first step, the court must decide whether the right at issue was 'clearly established' at the time of the defendant's alleged misconduct." Pearson v. Callahan, 129 S. Ct. 808, 815-16, 172 L. Ed. 2d 565 (2009) (citing Saucier v. Katz, 533 U.S. 194, 201, 121 S. Ct. 2151, 150 L. Ed. 2d 272 (2001) (internal citations omitted)). Without modifying the elements of the qualified immunity analysis, the Supreme Court recently held that courts no longer need to adhere to the rigid sequence of the analysis established in Saucier, but may instead determine which prong should be addressed first based upon the facts of the case before it. *See* Pearson v. Callahan, 129 S. Ct. 808, 815-16, 818, 172 L. Ed. 2d 565 (2009).

3. Similarly, in Goines v. James, 189 W.Va. 634, 433 S.E.2d 572 (1993), the Supreme Court of Appeals of West Virginia, relying on Harlow v. Fitzgerald, 457 U.S. 800 (1982), opined that police officers are entitled to assert a qualified or "good faith" immunity defense from individual liability for conduct arising during the performance of official duties insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known.

4. Notably, in Hutchison v. City of Huntington, 198 W.Va. 139, 479 S.E.2d 649 (1996), the court acknowledged the need for early resolution of immunity rulings: "We agree with the United States Supreme Court to the extent it has encouraged, if not mandated, that claims of immunities, where ripe for disposition, should be summarily decided before trial." Id. at 147, 479 S.E.2d at 657. Moreover, "immunities under West Virginia law are more than a defense to a suit in that they grant governmental bodies and public officials the right not to be subject to the burden of trial at all. The very heart of the immunity defense is that it spares the defendant from having to go forward with an inquiry into the merits of the case." Id. at 148, 479 S.E.2d at 658 citing Swint v. Chambers County Commission, 514 U.S. 35, 115 S. Ct. 1203, 131 L. Ed. 2d 60 (1995).

**B. False Arrest/Imprisonment.**

5. Cpl. Knotts seeks qualified immunity with respect to Plaintiff's claims for false arrest and false imprisonment. "False arrest and false imprisonment overlap, the former is a species of the other." Wallace v. Kato, 127 S. Ct. 1091, 1095 (2007). Accordingly, the law recognizes these torts as one. Id. Cpl. Knotts claims he is entitled to qualified immunity with respect to the arrest of Plaintiff because he arrested the plaintiff in the performance of his official

duties as a police officer pursuant to a facially valid warrant, and which he reasonably believed to be valid.

6. In Syllabus Point 8 of Parkulo v. West Virginia Board of Probation and Parole, 199 W.Va. 161, 483 S.E.2d 507 (1996) [citations omitted], the court stated:

> A public executive official who is acting within the scope of his authority and is not covered by the provisions of W.Va. Code, §29-12A-1, et seq., is entitled to qualified immunity from personal liability for official acts if the involved conduct did not violate clearly established laws of which a reasonable official would have known. There is no immunity for an executive official whose acts are fraudulent, malicious or otherwise oppressive.

7. Moreover, the court in State v. Chase Securities, Inc., 188 W.Va. 356, 361, 424 S.E.2d 591, 596 (1992) noted that "the purpose of such official immunity is not to protect an erring official, but to insulate the decision making process from the harassment of prospective litigation. The provision of immunity rests on the view that the threat of liability will make federal officials unduly timid in carrying out their official duties, and that effective government will be promoted if officials are freed of the costs of vexatious and often frivolous damages suits." [Citations omitted].

8. In Clark v. Dunn, 195 W.Va. 272, 466 S.E.2d 374 (1995), a DNR officer was questioning two illegal hunting suspects. When one of the individuals did not put his gun down, the officer drew his weapon and tried to remove the gun from the suspect. While removing the gun it discharged injuring the other suspect in the leg. The court stated that "it is clear that as a public official, Dunn, is entitled to qualified immunity for his actions in performing discretionary acts" and "negligence simply is not sufficient for liability to be imposed under this standard or doctrine." The court further stated, as in the instant case, "Officer Dunn was engaged in the performance of discretionary judgments and actions within the course of his duties. In

performing those discretionary duties, Officer Dunn should not be faced with the choice of either inaction or dereliction of duty or 'being mulcted in damages' for doing his duty." Id. at 278, 465 S.E.2d at 380.

9. This duty was well articulated in Syllabus Point 4 of Clark where the court stated:

> If a public officer is either authorized or required, in the exercise of his judgment and discretion, to make a decision and to perform acts in the making of that decision, and the decision and acts are within the scope of his duty, authority, and jurisdiction, he is not liable for negligence or other error in the making of that decision, at the suit of a private individual claiming to have been damaged thereby.

10. Here, Cpl. Knotts reasonably believed that he had a valid warrant for the arrest of the Plaintiff. Indeed, Plaintiff has not challenged the facially validity of the warrant. Instead, he simply asserts that Cpl. Knotts should have known that it was recalled. Further, it cannot be disputed that Cpl. Knotts was carrying out his official duties as an officer when he made the arrest. As such, he is entitled to qualified immunity under West Virginia law.

11. Moreover, the Fourth Circuit has held that "[A] public official cannot be charged with false arrest when he arrests a defendant pursuant to a facially valid warrant." Porterfield v. Lott, 156 F.3d 563, 568 (4th Cir. 1998); Brooks v. City of Winston-Salem, 85 F.3d 178, 181 - 182 (4th Cir. 1996). Indeed, it is not the duty of the arresting officer to assess guilt or innocence, but merely to serve the warrant.

> A reasonable division of functions between law enforcement officers, committing magistrates, and judicial officers -- all of whom may be potential defendants in a § 1983 action -- is entirely consistent with "due process of law." Given the requirements that arrest be made only on probable cause and that one detained be accorded a speedy trial, we do not think a sheriff executing an arrest warrant is required by the Constitution to investigate independently every claim of innocence, whether the claim is based on mistaken identity or a defense such as lack of requisite intent. Nor is the official charged with maintaining custody of the

> accused named in the warrant required by the Constitution to perform an error-free investigation of such a claim. The ultimate determination of such claims of innocence is placed in the hands of the judge and the jury.

Baker v. McCollan, 443 U.S. 137, 145-46, 99 S. Ct. 2689, 61 L. Ed. 2d 433 (1979) (footnote omitted). An arresting officer is generally entitled to rely on a facially valid warrant in effecting an arrest. In fact, the Fourth Circuit has found that qualified immunity is available to defendants for the execution of a facially valid arrest warrant even though the wrong individual was arrested. In Mensh v. Dyer, 956 F.2d 36 (4th Cir. 1991), the family member of a suspect was awoken by an arrest team which had entered his home by breaking down his door after he failed to answer a knock. The team entered the home yelling and swearing and ordering the arrestee/plaintiff to come down with his hands in the air. When the plaintiff failed to raise his hands, officers grabbed him and pushed him against the wall and cuffed him. The officers actually had a warrant for the plaintiff's son, not the plaintiff. The officers kept the plaintiff handcuffed until he calmed down. Plaintiff claimed numerous constitutional violations including that he was arrested without probable cause; defendants failed to knock and announce their presence; and that the defendants used excessive force in making the arrest. On these facts, the Fourth Circuit held that the defendants were entitled to qualified immunity for the execution of a facially valid arrest warrant and that the plaintiff could not establish the violation of any clearly established right despite the manner in which the warrant was executed. Id. at 40.

12. Here, Cpl. Knotts executed a facially valid arrest warrant that was provided to him by other law enforcement. Thus, no "false arrest" occurred. Given that Plaintiff's right to be free from false arrest was not violated, Cpl. Knotts did not violate a clearly established right of which a reasonable person would have known. Accordingly, Cpl. Knotts is entitled to

summary judgment on Plaintiff's claims for false arrest and false imprisonment based upon qualified immunity.

## III. RULINGS

1. For reasons set forth above, the Defendant's Motion for Summary Judgment is **GRANTED**, and Plaintiff's action is hereby **DISMISSED** in its entirety with prejudice.

2. The Court **NOTES** the Plaintiff's objections and exceptions to this Order.

3. The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record.

**ENTERED:** This 15th day of February, 2011.

HONORABLE ALAN D. MOATS
**JUDGE**

**Submitted by:**

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