NO. 20-_____

In the Supreme Court of the United States

RICHARD SPINNENWEBER, ET AL.,

Petitioners,

v.

DAN WILLIAMS,

Respondent.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Eleventh Circuit

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

Whether the district court erred in holding that there was probable cause to believe the plaintiffs had committed the crime for which they were arrested.

PARTIES TO THE PROCEEDINGS

Petitioners

- Richard Spinnenweber
- Chris Spinnenweber

Respondent

- Dan Williams

LIST OF PROCEEDINGS

United States Court of Appeals for the Eleventh Circuit

19-14489

Richard B. "Rick" Spinnenweber and Chris Spinnenweber, *Plaintiffs-Appellants*, v. Dan Williams, *Defendant-Appellee.*

Date of Final Opinion: September 23, 2020

United States District Court for the Northern District of Florida Tallahassee Division

4:18cv515-RH-CAS

Richard B. "Rick" Spinnenweber and Chris Spinnenweber, *Plaintiffs*, v. Dan Williams, *Defendant*.

Date of Final Order: October 31, 2019

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PETITION FOR A WRIT OF CERTIORARI

Petitioners, Richard Spinnenweber and Chris Spinnenweber, respectfully pray that a writ of certiorari issue to review the opinions below.

OPINIONS BELOW

The Opinion of the United States Court of Appeals, for the Eleventh Circuit, dated September 23, 2020, appears in Appendix A at App.1a to the petition and is unpublished. The Order of Dismissal of the United States District Court for the Northern District of Florida, dated October 31, 2019, appears in Appendix B at App.7a.

JURISDICTION

The jurisdiction of the Supreme Court of The United States is invoked pursuant to 28 U.S.C. § 1254(1) to review the final judgment of the United States Court of Appeals for the Eleventh Circuit rendered on September 23, 2020. (App.1a)

STATEMENT OF THE CASE

A. Course of Proceedings and Disposition in the Courts Below

The Appellants, Richard and Chris Spinnenweber were arrested on November 12, 2014 [DOC.1]. Appellants, proceeding *pro se*, filed a Complaint in the Northern District of Florida, Tallahassee Division, on November 6, 2018. On August 21, 2019, Defendant Dan Williams moved to dismiss [DOC.35]. The district court granted Defendant's Motion on October 31, 2019 [DOC.44, App.7a]. On November 8, 2019, Appellants filed the instant appeal.

The Notice of Appeal [DOC.46] was timely filed on November 8, 2019, pursuant to Federal Rule of Appellate Procedure 4(a).

B. Statement of the Facts

In the Spring of 2014, Jay and Jennifer Royston were paying guests of the Appellants at the main campground. Upon leaving the campground the Roysdons left their pickup truck behind at the main campground, and left Appellants the key to that vehicle. According to the Roysdons, there was a verbal agreement between them and Appellants to store the vehicle at their campground until the Roysdons returned to claim it. The Appellants denied there was any such agreement [DOC.29-1,¶ 9].

Five (5) months later, the Roysdons returned to reclaim their pickup truck. At that time the Appellants requested a fee from the Roysdons for storage of the

vehicle for five (5) months while the Roysdons were away. Rather than simply pay the fee and receive their vehicle, Jennifer Roysdon contacted the Jefferson County Sheriff's Department and made a stolen vehicle report [DOC.29-1,¶ 10].

On Sunday, November 2, 2014, in the afternoon, Jefferson County Sheriff's Deputy Matthews arrived at the Appellants' office, open 8-to-7 everyday, at the main campground. It is a yellow-roof, A-frame building which can be seen from Interstate 10 at mile marker 223 [DOC.29-1, ¶ 11].

Appellant Rick Spinnenweber, who was at the front desk, explained to Deputy Matthews about the Roysdons who had given them the key to their vehicle and left it on the Appellants' property, and then returned for it five (5) months later and that Appellants had requested the Roysdons to pay a storage fee when they returned for the vehicle [DOC.29-1, ¶ 12] & [DOC. 22-1, pp.3 & 4, ¶ 5].

When Deputy Matthews did not understand Appellant Rick Spinnenweber's explanation about the Appellants' requesting the Roysdons to pay a storage fee for allowing the Roysdons to leave their vehicle on their property for five (5) months, Appellant Rick Spinnenweber asked Deputy Matthews to talk to his Supervisor and Deputy Matthews then left the campground in his vehicle at a high rate of speed [DOC.29-1, ¶ 13].

Appellant Rick Spinnenweber called the Sheriff's Office, but was told no one was there, so he left a message [DOC.29-1, ¶ 14].

The next morning, on Monday, November 3, 2014, Appellant Rick Spinnenweber again telephoned the

Sheriff's office, but Sheriff Hobbs was not in, so Appellant Rick Spinnenweber left a message, but received no response [DOC.29-1, ¶ 15].

On Tuesday morning, November 4, 2014, Appellant Rick Spinnenweber again telephoned the Sheriff's office, but Sheriff Hobbs was not in, so Appellant Rick Spinnenweber left a message, but received no response [DOC.29-1, ¶ 16].

On Wednesday morning, November 5, 2014, Appellant Rick Spinnenweber again telephoned the Sheriff's office, but Sheriff Hobbs was not in, so Appellant Rick Spinnenweber left a message, but received no response [DOC.29-1, ¶ 17].

On Thursday, November 6, 2014, at around Noon, two (2), white SUVs with black tinted windows arrived at the Appellants' main campground [DOC.29-1, ¶ 18].

Appellant Rick Spinnenweber telephoned the Sheriff Hobbs, but, this time, Chief Deputy Bill Bullock answered the telephone. When Appellant Rick Spinnenweber asked, "what's going on?" Chief Deputy Bullock responded, "I don't like being talked down to." Appellant Rick Spinnenweber did not understand what Bullock meant by that statement [DOC.29-1, ¶ 19].

Detective Williams and Detective Knecht walked into the Appellants' Office and up to the front desk with former guest, Jennifer Roysdon. who had not yet paid Appellants the requested fee [DOC.29-1, ¶ 20].

The detectives instructed Jennifer Roysdon to pay Appellants the storage fee. Jennifer Roysdon paid the storage fee and the vehicle was then removed by the owner. Detective Williams would later prepare an affidavit of probable cause which would intentionally

omit this information to mislead the Court regarding the status of the vehicle at the time he filed the Probable Cause Affidavit [DOC.29-1, ¶ 21].

On Wednesday, November 12, 2014, at around 8:00 PM, six (6) days after the owner of the vehicle had paid the storage fee and received possession of the vehicle, two patrol cars showed up at the Appellants' residence at the main campground [DOC.29-1, ¶ 23].

Deputy Wilcox and Deputy Bradley stepped from their cars and informed the Appellants that they are all under arrest, except for the Appellants' mother [DOC.29-1, ¶ 24].

Appellant Chris Spinnenweber told Deputies Wilcox and Bradley that he and Appellant Rick Spinnenweber and their father, Dick Spinnenweber, would like to come to the Sheriff's Office on their own, because their father, the elder Spinnenweber was 82-years old at the time [DOC.29-1, ¶ 25].

Deputies Wilcox and Bradley made a call to the Sheriff's Department and the request to turn themselves in voluntarily was denied [DOC.29-1, ¶ 26].

Appellants called County Commissioner Hines Boyd on a speaker phone. While Commissioner Boyd was on the speaker phone talking to Deputies Willcox and Bradley, Deputy Bradley suddenly flew into a rage with Deputy Wilcox right behind Deputy Bradley, and both savagely beat down on the Appellants' father, the elderly Dick Spinnenweber, as a helpless Appellant Rick Spinnenweber was forced to watch without being able to come to the aid of his father. The violent assault against 82-year-old Dick Spinnenweber resulted in the loss of two (2) of his teeth and the full use of his left shoulder. Two-and-a-half years later, on August 20,

2017, Appellants father, Dick Spinnenweber suddenly died, thus he was not able to be a party to this lawsuit [DOC.29-1, ¶ 27].

Deputy Wilcox put Appellant Chris Spinnenweber into his patrol car and drove in the opposite direction of the Sheriff's Office, crossing over State Road 27, and eventually pulling into a driveway and sitting. After observing the assault on their father, Appellant Chris Spinnenweber was in fear for his life as he sat in the patrol car [DOC.29-1, ¶ 28].

Deputy Bradley put the elder Dick Spinnenweber and Appellant Rick Spinnenweber into his car. Upon their arrival at the Sheriff's Office, Appellants' father, the elder Dick Spinnenweber, suffered a heart attack and was taken to the hospital [DOC.29-1, ¶ 29].

Detective Williams intentionally submitted a false and misleading, material omission in his Probable Cause Affidavit, by failing to mention that he was instrumental in the Appellants' former guests (Roysdons), final transaction [DOC.29-1, ¶ 30].

Detective Williams intentionally falsified the Probable Cause Affidavit to justify arresting the Appellants and their elderly father in what was an obvious, civil dispute over a bailment arising out of Jennifer Roysdon's attempt to reclaim her vehicle without paying a storage fee after leaving the vehicle in the Appellants' possession for five (5) months [DOC.29-1, ¶ 31].

REASONS FOR GRANTING THE PETITION

I. WHETHER THE DISTRICT COURT ERRED IN HOLDING THAT THERE WAS PROBABLE CAUSE TO BELIEVE THE PLAINTIFFS HAD COMMITTED THE CRIME FOR WHICH THEY WERE ARRESTED.

The Eleventh Circuit "has identified malicious prosecution as a violation of the Fourth Amendment and a viable constitutional tort cognizable under § 1983." *Wood v. Kesler*, 323 F.3d 872, 881 (11th Cir. 2003). The Eleventh Circuit has also recognized that by "merely securing an arrest without probable cause, regardless of subsequent detention, a 'Fourth Amendment violation . . . analogous to the tort of malicious prosecution []' occurs." *Carter v. Gore*, 557 Fed. App'x 904, 907 (11th Cir. 2014) (quoting *Whiting v. Traylor*, 85 F.3d 581, 586 (11th Cir. 1996)). Indeed, "an officer who secures an arrest warrant without probable cause is liable for all foreseeable injuries flowing from the officer's initial act, regardless of further involvement." *Malley v. Briggs*, 475 U.S. 335, 106 S.Ct. 1092, 89 L.Ed. 2d 271 (1986) (holding that § 1983 liability is premised on holding people responsible for the natural consequences of their actions and that liability for the consequences of an arrest flow naturally from filing an affidavit). "Thus . . . an officer's liability for malicious prosecution flows from initially securing an invalid warrant, and liability extends to foreseeable injuries related to subsequent seizure, detention, and prosecution." § 1983 malicious prosecution claim requires a plaintiff to plead the elements of a common law tort malicious prosecution and a violation of his Fourth

Amendment right to be free from unreasonable seizure. *Kingsland v. City of Miami*, 382 F.3d 1220 (11th Cir. 2004) (citing *Durkin v. Davis*, 814 So.2d 1246 (Fla. 2d DCA 2002).

The probable cause affidavit drafted by Respondent Dan Williams intentionally overstated the role of Petitioner Rick Spinnenweber and complete omitted that the truck was returned after payment of the storage fee on November 6, 2014. The probable cause affidavit also states a storage bill was never produced and an agreed fee was paid. Williams knew that a storage fee bill was produced and provided to him and the truck's owners on November 6, 2014. Rick Spinnenweber's behavior was not criminal and Williams included him in the probable cause affidavit because he walked away from a confrontation with Williams. Spinnenweber's had a legal right to a storage fee on the vehicle. The truck was returned. There was no probable cause to arrest Rick Spinnenweber.

It is well established that a bailment is a contractual relationship which requires both the actual or constructive transfer of property and the re-delivery of the property to the owner/bailor. *Dunham v. State*, 192 So. 324 (Fla. 1939); *Meeks v. Florida Power & Light Co.*, 816 So.2d 1125 (Fla. 5th DCA 2002), *approved* 835 So.2d 287 (Fla. 2003); *S & W Vac Systems, Inc. v. Florida Department of Revenue*, 69 So.2d 1313 (Fla. 5th DCA 1997); *Monroe Systems for Business, Inc. v. Intertrans Corp.*, 650 So.2d 72 (Fla. 3rd DCA), *rev. denied*, 659 So.2d 1087 (Fla. 1995); *C.W.B. Enterprises, Inc. v. K.A.T. Equipment Corp.*, 449 So.2d 354 (Fla. 3rd DCA 1984); *Clermont Marine Sales v. Harmon*, 347 So.2d 839 (Fla. 2nd DCA 1977).

This is similar to a situation where you attempt to take your car out of a parking lot without paying. The parking lot attendant is clearly authorized to refuse to let you take the car out and the parking lot attendant's refusal to give you the car is entirely lawful under the Common Law rule. This is the same thing here. There doesn't appear to be any written agreement; this was an oral agreement between the owner of the vehicle, the Roysdons, and an employee of the company. Even assuming that the employee was an agent of the company, we still have the Common Law rule that the bailee in charge of the property still has the right to be paid for his services before he returns the property therefore there was never any intent to permanently deprive the Roysdons of their vehicle. This was simply the Appellants, acting as bailee of the property, saying when you pay us you'll have your vehicle. They were paid and the Roysdons received their vehicle. Appellee Detective Williams knew this and hence his own reference to the matter as a civil matter. If Appellee Williams had submitted his probable cause affidavit days before the vehicle had been returned to the Roysdons, he might have been on better grounds, but he clearly has no basis for accusing the Appellants of theft of the vehicle when he knew at the time that they were the bailees of the property and were entitled to a storage fee which he helped negotiate prior to filing the probable cause affidavit.

Here, the probable cause affidavit submitted to County Judge Robert Plaines had two (2) references to the Appellants herein. In the Jefferson County Sheriff's Office narrative, attached to the probable cause affidavit, it states:

D/S Dustin Matthews was dispatched to the

> KOA because of this incident. He spoke with Richard B. Spinnenweber (Rick), (Dick's other son who manages the front desk, and handles the renting and payment for camp lots, and storage units.) Rick said they tried to contact Jennifer, but her number was disconnected, and that they never received any payment for storage. He said he thinks they took the truck for payment of the storage unit. [DOC.22-1, pp.3 & 4, ¶ 5].

The facts indicate there may have been probable cause to arrest Richard Spinnenweber, Sr., and possibly Appellant Chris Spinnenweber, but not Appellant Rick Spinnenweber. Appellant Rick Spinnenweber is the one who dealt directly with Appellee Dan Williams on November 6, 2014, and Dan Williams included Rick Spinnenweber in the arrest warrant solely in retaliation for his lack of due deference to Dan Williams, not because of any criminal activity of Appellant Rick Spinnenweber. The evidence of retaliation is Appellee Dan Williams intentionally omitting from the probable cause affidavit the fact that the Roysdons' vehicle had been returned to them on November 6, 2014, after they paid the storage fee. There was no probable cause to arrest Appellant Rick Spinnenweber for criminal activity based on his interaction with Appellee Dan Williams on November 6, 2014.

CONCLUSION

For the reasons stated herein, Petitioners hereby request the Court grant the writ of certiorari and reverse the decision of the United States Court of Appeals for the Eleventh Circuit.

Respectfully submitted,

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