

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 16-17443

D.C. Docket No. 5:14-cv-01795-CLS

SHARON ANN RANSOM,

Plaintiff-Appellant,

versus

RICHARD SHERMAN,

Defendant-Appellee.

Appeal from the United States District Court
for the Northern District of Alabama

(September 6, 2017)

Before WILSON and NEWSOM, Circuit Judges, and WOOD,* District Judge.

PER CURIAM:

* Honorable Lisa Wood, United States District Judge, for the Southern District of Georgia, sitting by designation.

Sharon Ransom brought this action for damages against Deputy Richard Sherman, under 42 U.S.C. § 1983, alleging that Sherman violated her Fourth Amendment rights to be free from wrongful arrest and excessive force. The district court held that Sherman is entitled to qualified immunity and granted Sherman's motion for summary judgment. We affirm finding no reversible error.

Deputy Richard Sherman pursued Justin Ransom, who was fleeing from a traffic checkpoint, into what turned out to be the front yard of his parents' home. During Justin Ransom's arrest, Sharon Ransom and her husband came out onto their porch. Sharon Ransom began shouting at the officers, who instructed her to go inside. When Ransom continued to shout, Sherman arrested and handcuffed her. Ransom brought this suit for wrongful arrest and excessive force.

Sherman is entitled to qualified immunity if he had arguable probable cause for the arrest. *See Case v. Eslinger*, 555 F.3d 1317, 1326–27 (11th Cir. 2009). Audio evidence of the scene reveals that Ransom was yelling at the officers as they were arresting her son. Section 13A-10-41(a) of the Alabama Code prohibits “prevent[ing] or attempt[ing] to prevent a peace officer from affecting a lawful arrest of himself or of another person.” Based on the audio evidence, the district court correctly held that Ransom failed to establish that no reasonable officer could have thought there was probable cause to arrest her for resisting arrest under Alabama law. *See Vinyard v. Wilson*, 311 F.3d 1340, 1346–47 (11th Cir. 2002).

We agree with the district court; it was correct to conclude that Sherman was entitled to qualified immunity on Ransom's wrongful arrest claim.

The district court was also correct to conclude that Sherman is entitled to qualified immunity on Ransom's excessive force claim. "The Fourth Amendment [] . . . encompasses the plain right to be free from the use of excessive force in the course of an arrest." *Lee v. Ferraro*, 284 F.3d 1188, 1197 (11th Cir. 2002). "[T]he question is whether the officers' actions are 'objectively reasonable' in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation." *Graham v. Connor*, 490 U.S. 386, 397, 109 S. Ct. 1865, 1872 (1989). Ransom claims that both Sherman's rough use of handcuffs and use of pepper spray on her was excessive and not objectively reasonable.

Video evidence shows that Sherman was holding Ransom's arms high behind her back, a handcuffing technique designed to give the arrestee the sensation that they will fall forward if they don't walk forward. This handcuffing technique "is a relatively common and ordinarily accepted non-excessive way to detain an arrestee." *Rodriguez v. Farrell*, 280 F.3d 1341, 1351 (11th Cir. 2002). We agree with the district court's conclusion that Sherman's arrest of Ransom did not constitute excessive force.

Video evidence also shows Ransom partially entering the patrol car, Sherman removing something from his pocket, and then Ransom fully entering the

patrol car. Although Sherman denies it, Ransom argues that he pepper-sprayed her. We have held that “using pepper spray is reasonable . . . where the plaintiff was either resisting arrest or refusing police requests, such as requests to enter a patrol car” *Vinyard v. Wilson*, 311 F.3d at 1348. The video of the incident shows that Ransom had not fully moved into the patrol car, making Sherman’s actions reasonable. We therefore agree with the district court that there was no excessive force.

Accordingly, the district court’s grant of summary judgment to Sherman is **AFFIRMED.**

**UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

David J. Smith
Clerk of Court

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September 06, 2017

MEMORANDUM TO COUNSEL OR PARTIES

Appeal Number: 16-17443-AA
Case Style: Sharon Ransom v. Richard Sherman
District Court Docket No: 5:14-cv-01795-CLS

This Court requires all counsel to file documents electronically using the Electronic Case Files ("ECF") system, unless exempted for good cause. Enclosed is a copy of the court's decision filed today in this appeal. Judgment has this day been entered pursuant to FRAP 36. The court's mandate will issue at a later date in accordance with FRAP 41(b).

The time for filing a petition for rehearing is governed by 11th Cir. R. 40-3, and the time for filing a petition for rehearing en banc is governed by 11th Cir. R. 35-2. Except as otherwise provided by FRAP 25(a) for inmate filings, a petition for rehearing or for rehearing en banc is timely only if received in the clerk's office within the time specified in the rules. Costs are governed by FRAP 39 and 11th Cir.R. 39-1. The timing, format, and content of a motion for attorney's fees and an objection thereto is governed by 11th Cir. R. 39-2 and 39-3.

Please note that a petition for rehearing en banc must include in the Certificate of Interested Persons a complete list of all persons and entities listed on all certificates previously filed by any party in the appeal. See 11th Cir. R. 26.1-1. In addition, a copy of the opinion sought to be reheard must be included in any petition for rehearing or petition for rehearing en banc. See 11th Cir. R. 35-5(k) and 40-1 .

Counsel appointed under the Criminal Justice Act (CJA) must submit a voucher claiming compensation for time spent on the appeal no later than 60 days after either issuance of mandate or filing with the U.S. Supreme Court of a petition for writ of certiorari (whichever is later) via the eVoucher system. Please contact the CJA Team at (404) 335-6167 or cja_evoucher@ca11.uscourts.gov for questions regarding CJA vouchers or the eVoucher system.

Pursuant to Fed.R.App.P. 39, each party to bear own costs.

The Bill of Costs form is available on the internet at www.ca11.uscourts.gov

For questions concerning the issuance of the decision of this court, please call the number referenced in the signature block below. For all other questions, please call Tonya L. Searcy, AA at (404) 335-6180.

Sincerely,

DAVID J. SMITH, Clerk of Court

Reply to: Djuanna Clark
Phone #: 404-335-6161

OPIN-1A Issuance of Opinion With Costs