IN THE COURT OF APPEALS OF IOWA

No. 1-514 / 00-0424
Filed September 26, 2001

NEIL STINE,
Plaintiff-Appellant,

vs.

CITY OF LISBON, IOWA and RICKY LEE SCOTT,
Defendants-Appellees.

FILED
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CLERK SUPREME COURT

Appeal from the Iowa District Court for Linn County, Thomas M. Horan, Judge.

Neil Stine appeals the district court's order granting summary judgment in favor of the City of Lisbon, Iowa, and Ricky Lee Scott in his wrongful arrest suit. **AFFIRMED.**

L. Jeffrey Zearley, Tipton, for appellant.

Terry Abernathy of Pickens, Barnes & Abernathy, Cedar Rapids, for appellees.

Considered by Huitink, P.J., and Miller and Hecht, JJ.

HUITINK, P.J.

Neil Stine appeals the district court's order granting defendants' motion for summary judgment in his wrongful arrest suit. He contends the trial court erred in granting the summary judgment motion because genuine issues of material fact remain for the jury to determine. We affirm.

I. Background Facts and Proceedings. In February of 1998 Neil Stine was driving his pickup truck when he became aware of a police car following him with its lights flashing. Instead of pulling over, Stine continued to drive another half mile until he reached his driveway. Officer Ricky Lee Scott then informed Stine he was under arrest for failure to yield to an emergency vehicle. Stine was transported to the Linn County Jail and charged with failure to yield to an emergency vehicle, driving left of center, no taillights, and no license plate light. He later pled guilty to driving left of center and having no taillights.

In August of 1998 Stine brought suit against the City of Lisbon and Officer Scott alleging he had been wrongfully arrested for drunk driving, although he was never charged with operating while intoxicated (OWI). In his deposition Stine admitted that he did not yield to an emergency vehicle. Defendants then brought a motion for summary judgment claiming Stine failed to prove his detention was unlawful because he admitted Scott had probable cause to arrest him for failing to yield. Defendants also argued Stine could not prove his arrest was unlawful because he pled guilty to two charges. Finding no dispute of material fact existed, the district court granted defendants' motion for summary judgment.

On appeal, Stine claims an issue of material fact exists as to whether he was arrested for OWI or for the traffic offenses. Defendants respond that there is no support in the record for Stine's claim that he was arrested for OWI. Defendants also contend the issue is irrelevant because Officer Scott had probable cause to arrest Stine for the traffic violations and Stine's plea of guilty to two of the charges precludes him from relitigating whether the arrest was unlawful.

II. Scope of Review. We review rulings on motions for summary judgment for errors at law. *Sain v. Cedar Rapids Cmty. Sch. Dist.*, 626 N.W.2d 115, 121 (Iowa 2001). The record before the district court is reviewed to determine whether a genuine issue of material fact existed and whether the district court correctly applied the law. *Id.*

In ruling on a motion for summary judgment, the court must view the facts in the light most favorable to the party resisting the motion. *Phillips v. Covenant Clinic*, 625 N.W.2d 714, 717 (Iowa 2001). The court must consider every legitimate inference that can be reasonably deduced from the record in favor of the resisting party. *Id.* at 718.

> An inference is legitimate if it is rational, reasonable, and otherwise permissible under the governing substantive law. On the other hand, an inference is not legitimate if it is based upon speculation or conjecture. If reasonable minds may differ on the resolution of an issue, a genuine issue of material fact exists.

Id.

III. Wrongful Arrest. Stine argues that there is a dispute as to whether he was arrested for the traffic violations or for OWI. While Stine was never

charged with OWI, he claimed in his deposition that another officer informed him he was ticketed for the offense. He did not know the name of the officer and offers no other evidence in support of his claim. Iowa Rule of Civil Procedure 237(e) states:

> When a motion for summary judgment is made and supported as provided in this rule, an adverse party may not rest upon the mere allegations or denials in the pleadings, but the response, by affidavits or as otherwise provided in this rule, must set forth specific facts showing that there is a genuine issue for trial. If the adverse party does not so respond, summary judgment, if appropriate, shall be entered.

Because Stine relied on the mere allegations in the pleadings, summary judgment was appropriate. *See Farmers State Sav. Bank v. J.B.H. Enters.*, 561 N.W.2d 836, 838 (Iowa Ct. App. 1997). Furthermore, Stine admitted in his deposition that he failed to yield when he saw the flashing red lights and that Officer Scott told him he was under arrest for failing to yield to an emergency vehicle. The evidence viewed in the light most favorable to Stine would support the district court's view that he was not arrested for drunk driving.

Stine now argues that even though Officer Scott told him he was arrested for failure to yield to an emergency vehicle, it does not reveal his actual motive in arresting him. Assuming arguendo that Officer Scott arrested Stine for OWI, the arrest would not necessarily be unlawful. "An arrest for any proper reason, even a secondary one, may still be lawful." *State v. Harris,* 490 N.W.2d 561, 563 (Iowa 1992).

In order to establish a claim for false arrest, a plaintiff must prove (1) detention or restraint against a person's will, and (2) unlawfulness of the

detention or restraint. *Nelson v. Winnebago Indus.*, 619 N.W.2d 385, 388 (Iowa 2000).[1] Stine's admission that he continued driving after he was aware there was a police vehicle behind him with its emergency lights on negates the second element of his wrongful arrest claim. Iowa Code section 321.324 (1997) required Stine to immediately pull over. By failing to do so, Stine was committing a simple misdemeanor. Iowa Code § 321.482. A person known by the officer to have violated traffic laws is subject to full custodial arrest. *State v. Meyer,* 543 N.W.2d 876, 878 (Iowa 1996). As a result, Stine's arrest was lawful. Because Stine could not prove the second element of his wrongful arrest claim, the district court properly granted defendants' motion for summary judgment.

AFFIRMED.

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[1] The elements of a false arrest claim are identical to a false imprisonment claim. *Kraft v. City of Bettendorf,* 359 N.W.2d 466, 469 (Iowa 1984).