No. 25-11089

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

Scott MacIntyre,

Plaintiff-Appellant,

v.

City of Palm Bay, Officer Juan Castro Escandon, Officer Cole McDonald, and Officer Derrick Mitchell,

Defendants-Appellees.

On Appeal from a Final Judgment of the
United States District Court for the Middle District of Florida,
Orlando Division
Case No. 6:24-cv-988-JSS-RMN, Hon. Julie S. Sneed

REPLY BRIEF FOR PLAINTIFF-APPELLANT SCOTT MACINTYRE

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July 23, 2025

No. 25-11089

Scott MacIntyre, Plaintiff-Appellant

v.

City of Palm Bay, et al., Defendants-Appellees

Certificate of Interested Persons

Under this Court's Rule 26.1-1, Plaintiff-Appellant MacIntyre states that the following people and entities have an interest in the outcome of this appeal:

Brownstein, Elizabeth

City of Palm Bay

City of Palm Bay, City Attorney's Office

Deacon, Nathaniel Allen

Doyle, Donna

Escandon, Juan Castro

Faherty, Daniel Patrick

Gallamore, Brendan

Grosholz, Jeffrey J.

MacIntyre, Scott

Marsey, J. David

McDonald, Scott

Messenger, Erich Benjamin

Mitchell, Derrick

Norway, Hon. Robert M., U.S. Magistrate Judge

Rumberger Kirk

Smith, Patricia Denise

Sneed, Hon. Julie S., U.S. District Court Judge

Steinberg, Becca

Wang, Regina

Wolfman, Brian

July 23, 2025 Respectfully submitted,

/s/Brian Wolfman

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Argument

MacIntyre's opening brief explained why his three Fourth Amendment-based Section 1983 claims were adequately pleaded. Most of MacIntyre's arguments go unaddressed in Defendants' answering brief, and we do not repeat them here. We now respond briefly to the few points that Defendants have advanced.

I. MacIntyre's complaint was adequately pleaded.

A. The complaint stated claims for unlawful stop, false arrest, and excessive force under the Fourth Amendment.

Defendants' principal argument is that MacIntyre's complaint does not meet the modest demands of Rule 8, which requires only a "short and plain statement of the claim showing the pleader is entitled to relief." Fed. R. Civ. P. 8(a)(2). As our opening brief explains (at 12-15, 21-22, 23-26), MacIntyre has met Rule 8's standard for each claim on which he seeks reversal.[1]

Unlawful stop and false arrest. Defendants do not respond to our detailed explanation why, under this Court's case law, MacIntyre's complaint pleaded facts sufficient to support his unlawful-stop and false-arrest claims (Counts I and II). Instead, they rely exclusively on an

[1] Defendants devote considerable space to the district court's dismissal of MacIntyre's deliberate-indifference claim. *See* Answering Br. 14-18. MacIntyre is not pursuing that claim on appeal. *See* Opening Br. 3 (Issues Presented).

unreported district-court decision in a traffic-stop case, *Smith v. Rosado*, 2025 WL 573314 (S.D. Fla. Feb. 4, 2025). *See* Answering Br. 11-12.

Smith is wrong for the same reason the district court here was wrong: It miscasts properly pleaded facts as legal conclusions. *Smith* dismissed the plaintiff's allegation that "he did not violate 'any law, statute, or ordinance'" before he was pulled over as a legal conclusion, 2025 WL 573314, at *4; similarly, the district court here erred by dismissing as a legal conclusion the allegation that MacIntyre was complying with applicable laws when he was stopped, App. 48-49 (Dist. Ct. Op. 8-9). As our opening brief explains (at 12), an allegation of general compliance with traffic laws is not a legal conclusion that may be disregarded. *See Jackson v. City of Atlanta*, 97 F.4th 1343, 1359 (11th Cir. 2024).

In any case, *Smith* is distinguishable. As part of his stop, Smith received a traffic citation, and the court faulted Smith for not disputing that probable cause existed for the citation by "alleg[ing] facts to show that the stated basis for the [traffic] citation [he received] did not or could not apply to his actions." 2025 WL 573314, at *5. Here, MacIntyre was never issued a citation for the initial stop—in fact, he was never charged with anything at all—meaning that there was no information concerning purported criminal activity that he could rebut. Thus, all MacIntyre could reasonably be required to do is describe his nonsuspicious activity

preceding the stop. The law requires no more in the unreasonable-stop context. *See* Opening Br. 13 (citing *Jackson*, 97 F.4th at 1359).

And as to the false-arrest claim, MacIntyre *did* allege facts showing how resisting without violence—the crime he was later purportedly arrested for—could not apply to his actions. MacIntyre's complaint pleaded that he never resisted, obstructed, or opposed an officer as required to resist without violence, *see* Opening Br. 18-21 (citing App. 8, 15-16), and thus he alleged facts adequate to establish a lack of probable cause for arrest.

Excessive force. Our opening brief shows (at 23-26) that MacIntyre adequately pleaded that Defendants McDonald and Mitchell used excessive force when they violently threw him to the ground. Defendants seem to suggest that their use of force was "*de minimus*," Answering Br. 12 (citation omitted), and that MacIntyre's factual allegations are insufficient, *id.* at 13. These arguments get Defendants nowhere.

MacIntyre was arrested for a non-violent misdemeanor and never posed a threat to the officers, who nonetheless threw him to the ground after he voluntarily lifted his hands from the hood of a police car—textbook excessive force under this Court's precedent. *See* Opening Br. 23-26. Defendants give up the game when they acknowledge that "the use of gratuitous force when a suspect is not resisting violates the Fourth Amendment," Answering Br. 12, because, as pleaded, none of MacIntyre's

actions could be interpreted as resistance, *see* Opening Br. 18-21. Defendants suggest that MacIntyre lifting his hands provided justification for the officers to throw him to the ground, Answering Br. 12, but raising one's hands does not alone pose a threat that justifies force in response, *see Fils v. City of Aventura*, 647 F.3d 1272, 1289 (11th Cir. 2011); Opening Br. 25.

Defendants assert that MacIntyre's complaint is deficient because it does not allege how he was placed on the ground or what, specifically, McDonald or Mitchell did. Answering Br. 13. But that level of detail is not required at the pleadings stage. A complaint "does not need detailed factual allegations" to survive a motion to dismiss, *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007); it need only include facts that show that the plaintiff has a plausible claim, *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). As our opening brief shows (at 23-26), MacIntyre's complaint has stated a plausible excessive-force case, especially when read in the light most favorable to him. MacIntyre alleged that he did not pose a threat to officers, App. 15-16, and no facts show that MacIntyre resisted officers before he was arrested, Opening Br. 18-21. So, at this stage of the case, MacIntyre's complaint establishes that Officers McDonald and Mitchell violently threw to the ground someone who did not pose a threat and never resisted—all to effectuate an arrest for a non-violent misdemeanor (for which he was never charged).

B. MacIntyre's excessive-force claim did not improperly combine the allegations against Officers McDonald and Mitchell.

MacIntyre's excessive-force claim (Count VI) against McDonald and Mitchell alleges that both officers used excessive force in "violently thr[owing]" MacIntyre to the ground. App. 8, 15. Defendants argue that these allegations are "fundamentally flawed because McDonald and Mitchell are combined in a single count," Answering Br. 13-14, and that the complaint "fail[s] to inform each of these two officers what they allegedly did wrong," *id.* at 13. Defendants have invented a deficiency in MacIntyre's complaint that the district court did not recognize and that does not exist.

Defendants' reliance on *Lane v. Capital Acquisitions & Management Company*, 2006 WL 4590705 (S.D. Fla. Apr. 14, 2006), misunderstands both the law and *Lane*. True, commingling of defendants may warrant dismissal, but only when the allegations "fail to … give the defendants adequate notice of the claims against them and the grounds upon which each claim rests." *Weiland v. Palm Beach Cnty. Sheriff's Off.*, 792 F.3d 1313, 1323 & n.14 (11th Cir. 2015). But suing multiple defendants together for the same conduct is not alone a basis for dismissal. "The fact that defendants are accused collectively does not render [a] complaint deficient," so long as the "complaint can be fairly read to aver that all defendants are responsible for the alleged conduct." *Kyle K. v. Chapman*, 208 F.3d 940, 944 (11th Cir. 2000).

The complaint in *Lane* was deficient not because it combined multiple defendants into a single count, but because the defendants could not "determine from the face of the Complaint which acts or omissions the Plaintiffs seek to hold each of them liable." 2006 WL 4590705, at *5; *compare id.*, *with Kyle K.*, 208 F.3d at 944 (holding that a complaint that accused six individuals collectively as "HST Defendants" was sufficient because it could fairly be read to hold all individuals responsible). In contrast to the allegations in *Lane*, MacIntyre's excessive-force claim individually named McDonald and Mitchell and gave them each more than adequate notice of their actions at issue: It states twice that both McDonald and Mitchell violently threw MacIntyre to the ground. App. 8, 15. So what Defendants maintain is impermissible commingling is only MacIntyre's allegation that both officers used excessive force to effectuate his arrest by throwing MacIntyre to the ground.

II. Defendants are not entitled to qualified immunity, and MacIntyre's state-law claims should be reinstated.

Our opening brief explains why Defendants are not entitled to qualified immunity on each of MacIntyre's Section 1983 claims, Opening Br. 9-11, 15-21, 26-28, and why MacIntyre's supplemental state-law claims should be revived on remand, Opening Br. 28-29. Defendants do not meaningfully address either point.

As to the former, Defendants' answering brief nowhere denies that if the unlawful-stop and false-arrest claims were adequately pleaded,

Defendants would not be entitled to qualified immunity. And as to the excessive-force claim, Defendants make only a passing reference to qualified immunity, Answering Br. 12, but nowhere explain why they are entitled to it. Any arguments that Defendants might have advanced in favor of qualified immunity are therefore forfeited. *See, e.g.*, *La Grasta v. First Union Sec., Inc.*, 358 F.3d 840, 847 n.4 (11th Cir. 2004), *abrogated on other grounds by*, *Bell Atl. Corp. v. Twombly*, 550 U.S. 544 (2007).

Similarly, Defendants do not disagree that if any of MacIntyre's Section 1983 claims are reversed, his supplemental claims should be reinstated for consideration by the district court in the first instance. *See* Opening Br. 28-29.[2]

Conclusion

The district court's judgment should be reversed on all of MacIntyre's claims and the case remanded for further proceedings.

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[2] Defendants maintain that they sought to resolve this appeal short of "full briefing" by stipulating to dismissal and a remand to the district court "with leave to amend the complaint," but that MacIntyre was unwilling to do so. Answering Br. 4 n.3; *see id.* at 6. Defendants' decision to air in its brief purported extra-record conversations among counsel is improper. We are constrained by the rules and conventions of appellate practice to stick to the record. Suffice it say that Defendants' statements about attempts to resolve this appeal are not complete and accurate. We believe that reversal is required because MacIntyre has adequately pleaded three Fourth Amendment claims. If this Court disagrees, however, MacIntyre would benefit (of course) from a decision directing the district court to grant leave to amend the complaint.

Respectfully submitted,

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July 23, 2025

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July 23, 2025 /s/Brian Wolfman

Certificate of Service

I certify that, on July 23, 2025, this brief was filed using the Court's CM/ECF system. All participants in the case are registered CM/ECF users and will be served electronically via that system.

/s/Brian Wolfman