

Cite as 2009 Ark. 618

SUPREME COURT OF ARKANSAS

No. 09-245

EDDIE WADE

APPELLANT

V.

BENTON COUNTY SHERIFF KEITH FERGUSON, BENTON COUNTY DEPUTY TOM BREWSTER and BENTON COUNTY DEPUTY BRIAN STEARMAN, EACH IN THEIR OFFICIAL AND INDIVIDUAL CAPACITIES

APPELLEES

Opinion Delivered December 10, 2009

APPEAL FROM THE WASHINGTON COUNTY CIRCUIT COURT, [NO. 2008-2837-2]

HON. KIM MARTIN SMITH, JUDGE

AFFIRMED.

JIM HANNAH, Chief Justice

Appellant Eddie Lee Wade appeals from the Washington County Circuit Court’s order granting a motion to dismiss his complaint filed under the Arkansas Civil Rights Act against appellees Benton County Sheriff Keith Ferguson, Benton County Deputy Tom Brewster, and Benton County Deputy Brian Stearman.¹ Wade was arrested for the offense of driving while intoxicated after he was detained at a roadblock set up in Washington County. He alleged in his complaint that, because the Benton County officers were without jurisdiction to set up a roadblock in Washington County, the stop, detention, and arrest violated article 2, section

¹The officers were sued in both their official and individual capacities.



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15 of the Arkansas Constitution. Appellees responded with a motion to dismiss pursuant to Arkansas Rule of Civil Procedure 12(b)(6), contending that Wade failed to state a claim upon which relief could be granted because he did not allege in his complaint that he was arrested without probable cause. The circuit court granted the motion to dismiss. Wade appealed to the court of appeals, which certified the case to this court, as a case requiring the interpretation of the Arkansas Constitution and involving the development of the law on an issue of first impression. Our jurisdiction is pursuant to Arkansas Supreme Court Rule 1-2(a)(1) and (b)(1), (5). We affirm the circuit court.

When reviewing a circuit court's order granting a motion to dismiss, we treat the facts alleged in the complaint as true and view them in the light most favorable to the plaintiff. *Brewer v. Poole*, 362 Ark. 1, 207 S.W.3d 458 (2005). In testing the sufficiency of a complaint on a motion to dismiss, all reasonable inferences must be resolved in favor of the complaint, and all pleadings are to be liberally construed. *Id.* As to issues of law presented, our review is de novo. *Dollarway Patrons for Better Schs. v. Dollarway Sch. Dist.*, 374 Ark. 92, 286 S.W.3d 123 (2008). Our standard of review for the granting of a motion to dismiss is whether the circuit court abused its discretion. *See Ark. Dep't of Env't'l Quality v. Oil Producers of Ark.*, 2009 Ark. 297, 318 S.W.3d 570.

Because our standard of review requires us to examine the facts that were alleged in the complaint, we set out the pertinent allegations below:

On or about August 5, 2006, the Defendants authorized and set up a roadblock to catch traffic violators. The roadblock was in Washington County, Arkansas.



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Around 4:41 p.m. on August 5, 2006, Eddie Lee Wade was driving his vehicle in Washington County, Arkansas, when he encountered the roadblock. He was subsequently arrested by Deputy Stearman for driving while intoxicated and Mr. Wade was immediately transported to the Benton County jail in Bentonville, Arkansas.

Prior to the roadblock, all Defendants knew that the roadblock was going to be set up in Washington County, Arkansas, and they had no legal authority to act in an official capacity in Washington County, Arkansas.

During the entire stop, detention, and arrest, the Plaintiff informed all the Benton County deputies that the roadblock was in Washington County.

All Defendants knew that state law did not allow for the operation of this particular roadblock, and that they had no legal authority to stop, detain, or arrest the Plaintiff for committing a misdemeanor offense in Washington County.

Due to the above described arrest, the Plaintiff became a defendant in the district court in Rogers, Arkansas. Rogers, Arkansas, is located in Benton County, Arkansas.

On June 5, 2007, the case was dismissed by the district court after the state prosecutor rested without calling any witnesses. The prosecutor was made aware of the fact that the roadblock was not in Benton County, so the prosecutor took the appropriate action and terminated the prosecution of Mr. Wade.

The Defendants acted under the color of state law, statutes, ordinances, regulations, policies, customs, and usage of the State of Arkansas and Benton County, Arkansas, in intentionally, deliberately, or with deliberate indifference violating the Plaintiff's rights under the Arkansas Civil Rights Act of 1993 [A.C.A. 16-123-101], and Article 2, Section 15 of the Arkansas Constitution.

Plaintiff has incurred embarrassment, humiliation, and other damages, including, but not limited to, legal fees in defense of the criminal case, and lost income.

In addition, Wade demanded a jury trial and sought compensatory damages, punitive damages, costs, attorney's fees, and any other reasonable relief.

After reviewing the allegations in Wade's complaint, it is clear to us that, even assuming that the officers violated Arkansas law when they stopped, detained, and arrested



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Wade for a misdemeanor offense outside of their territorial jurisdiction, Wade failed to state a claim because he did not assert that the officers' actions were unreasonable. Article 2, section 15 of the Arkansas Constitution prohibits only unreasonable searches and seizures. *Thomas v. State*, 262 Ark. 83, 533 S.W.2d 41 (1977); *Guffey v. State*, 253 Ark. 720, 488 S.W.2d 28 (1972). Wade apparently suggests that an arrest that is illegal under Arkansas statutory law constitutes a per se violation of article 2, section 15 of the Arkansas Constitution. However, he offers no support for this assertion. We have repeatedly stated that we will not research or develop an argument for an appellant. *E.g.*, *Hathcock v. State*, 357 Ark. 563, 182 S.W.3d 152 (2004).

On a final note, we are aware that the circuit court relied on federal case law interpreting the Fourth Amendment in its ruling, and the parties argue at length about whether federal law is applicable in this case. It is unnecessary for us to turn to federal law because, as previously noted, Wade failed to allege in his complaint that the officers' actions were unreasonable, an allegation that would form the basis of a claim asserting a violation of article 2, section 15 of the Arkansas Constitution. It is axiomatic that this court can affirm a circuit court if the right result is reached even if it is for a different reason, *e.g.*, *Powell v. Lane*, 375 Ark. 178, 289 S.W.3d 440 (2008), and we do so in this case.

Affirmed.

IMBER, J., not participating.

Norwood & Norwood, P.A., by: *Doug Norwood*, for appellant.

Rainwater, Holt & Sexton, P.A., by: *JaNan Arnold Davis* and *Jason E. Owens*, for appellees.