

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

CALEB SAFFOLD,

Plaintiff,

v.

MEG HAMILTON and
RICHARD BAILEY,

Defendants,

OPINION AND ORDER

25-cv-001-wmc

Plaintiff Caleb Saffold filed this lawsuit against two police officers with the University of Wisconsin Police Department (“UWPD”), defendants Meg Hamilton and Richard Bailey, claiming that they violated his rights under the Fourth Amendment to the U.S. Constitution. (Dkt. #27.) Specifically, Saffold contends that Hamilton ordered another officer to frisk him without reasonable suspicion and Bailey failed to intervene to countermand her unlawful order. The parties have filed cross-motions for summary judgment. (Dkt. ##35 and 41.) For the following reasons, the court will grant in part and deny in part both motions.

BACKGROUND FACTS¹

Plaintiff Caleb Saffold is a 20 year old, African American man living in Madison, Wisconsin. Defendant Meg Hamilton is a sergeant and has worked in law enforcement since May 2007. She started her career with the City of Madison Police Department (“MPD”), working as an officer from May 2007 to January 2018, then as a sergeant from

¹ Unless otherwise indicated, the following facts are material and undisputed when viewing the parties’ proposed findings, responses, and related evidence.

January 2018 to November 2023. At that time, she joined UWPD, where she has also served as a sergeant. During her career, Hamilton has: (1) participated in numerous classes and training on police operations in the field; (2) spent time training new hires at the MPD and UWPD to act in compliance with state law, best practices, and internal policy; (3) supervised officers on calls in the field requiring a sergeant's presence; and (4) trained at least five officers while at UWPD, including Officer Richard Bailey.

Defendant Bailey began his career with UWPD in August 2023, graduated from the police academy in May 2024, and was still in training in September 2024. Before starting his career as a police officer, Bailey worked for the Wisconsin Department of Corrections as a correctional officer from 1999 to 2012, and again for a few months between 2014 and 2015. UWPD trains its new officers by putting them in the driver's seat on calls for service and partnering them with police training officers ("PTO"), who they rely on to step in and assist as necessary. This was Sergeant Hamilton's role in training Bailey. Based on Officer Bailey's experience working with Hamilton, he trusted her judgment as his PTO.

At approximately 9:29 p.m. on September 9, 2024, UWPD dispatch radioed defendants Hamilton and Bailey, directing them to assist Officer John Maginot with the Shorewood Hills Police Office, who had initiated a traffic stop on Rose Place, a short, two-block lane in a shopping mall near the University of Wisconsin-Madison. Officers Hamilton and Bailey arrived on the scene around 9:40 p.m., where Maginot was already speaking with Saffold through his driver's side window and his car stopped in the middle of the two-way lane. UWPD Officer Bailey then got out of his squad car and approached Saffold's vehicle on the passenger side while Sergeant Hamilton remained behind. When

Officers Maginot and Bailey had finished speaking with Saffold, they then both returned to Maginot's squad car, where Hamilton was now standing.

At that point, Maginot described his observations of Saffold, as well as the actions he had taken and intended to take for the remainder of the stop. These included that: (1) Maginot began to follow Saffold after observing dark window tint; (2) shortly after he began to follow him, Saffold cut his car across a Walgreens parking lot; (3) Saffold was alone in the car; (4) although Maginot observed that Saffold had watery eyes, gave vague answers about where he was going, had denied any cannabis use, and needed repeated instructions to leave his window rolled down, he did not believe there was sufficient basis to ask Saffold to perform a field sobriety test; (5) instead, a K-9 unit was on the way to conduct a sniff around Saffold's vehicle; and (6) Maginot was going to give Saffold some warnings, while they waited for the K-9 unit to arrive. (Dkt. #36, at Exhibit C, 2:05-3:15.)

While Sergeant Hamilton stepped away, Officer Maginot also told Bailey that Saffold was not on probation, but he a "history" of making terroristic threats and computer message threats in the City of Madison. (*Id.* at 3:58-4:13.) Hamilton then returned and asked if there was any criminal history that was of concern, to which Maginot responded, "terroristic threats" and "message threats, resisting, obstructing." (*Id.* at 5:03-5:20.) Sergeant Hamilton also asked if there was any odor of THC, to which Maginot responded, "no." (*Id.* at 5:45- 5:49.) When conducting the tint reading in Saffold's car, Officer Maginot also volunteered that he did not see anything in plain view in the car that would lead to a probable cause search, but based on Saffold's driving behavior and answers to his questions he believed he had reasonable suspicion for the stop. (*Id.* at 5:50-6:12.)

Hamilton and Bailey understood this to mean that Maginot had a reasonable suspicion that there were drugs in the vehicle justifying his call for the K-9 unit.

After these updates, Sergeant Hamilton explained to Officer Bailey, whom she was still training, that she felt comfortable leaving him with Maginot because: (1) there was no weapon information; (2) the underlying offense was window tint; (3) there had been no identified drugs; and (4) the presence of so many officers “might imply to [Saffold] that there is a lot more going on.” (*Id.* at 6:12-6:28.) She then instructed him to wave at her if anything changed regarding threat assessment and returned to their UWPD squad car. (*Id.* at 6:28-6:33.) During her deposition, Hamilton explained that “at this point [, she] didn’t have any criteria indicating that [Saffold] was armed and dangerous.”

Around 9:49 p. m., a K-9 unit with the Monona Police Department arrived on scene. After Officer Maginot explained the situation to the K-9 officer as Bailey listened, Bailey and the K-9 officer approached Saffold’s car while Maginot and Hamilton stayed behind. During this time frame, Bailey observed no significant changes inside the car from his last approach. (Dkt. #36, at Exhibit E, 8:50-9:45.) When they arrived at the car, however, Saffold now had his phone in hand and was talking with someone.

After being denied consent to search Saffold’s vehicle, the K-9 officer (1) informed Saffold that he would be bringing his dog over to sniff the outside of the vehicle and (2) directed Saffold to turn his car off and step out. (Dkt. #36, at Exhibit F, 0:30-0:57.) Saffold questioned the reason and authority for this directive, as apparently did the person on the phone, but the K-9 officer repeated the directive and explained that it was a lawful order. (Dkt. #36, at Exhibit F, 0:57-2:15.) After this, Saffold exited his vehicle without

physical resistance, while keeping his phone in his hand and his other hand out of his pockets. (Exhibit F, 2:15-2:25.) During this time, Sergeant Hamilton observed the K-9 officer giving, explaining, and repeating his order to Saffold. (Dkt. #36, at Exhibit D, 0:00-0:48.)

After exiting his car, Saffold followed Maginot's directions to walk toward his squad car so that he could discuss the warnings he was being issued. (*Id.* at 0:48-0:53.) On the way to the squad car, Officer Maginot asked Saffold if he had any weapon on him, to which Saffold responded, "no." (*Id.* at 0:53-0:55.) Once he got to Maginot's squad car, Sergeant Hamilton directed Saffold to place his hands on the hood, which he did, and Maginot then asked twice for consent to search him to make sure there were no weapons; however, he did not consent. (*Id.* at 0:54-1:08.) During this conversation, Hamilton also moved next to Saffold, holding his left arm with both her hands. (*Id.* at 0:59-1:30.)

Without consent to frisk, Officer Maginot started to walk away until Sergeant Hamilton called out and instructed Maginot to frisk Saffold. (Dkt. #36, at Exhibit A, 25:49-25:54.) Maginot then followed this directive, frisking Saffold while Bailey stood nearby. (*Id.* 25:54-26:07.) During the frisk, Hamilton and Saffold had the following exchange:

Hamilton: So hey there. Sorry, I didn't mean to speak past you. This is just standard whenever we bring people out of vehicles, we do a frisk for weapons.

Saffold: [inaudible]

Hamilton: No. I'm not making any assumptions. A standard thing that we do for safety when we're doing a drug investigation with a dog sniff of their car.

Id. No weapons or drugs were discovered on Saffold's person, the K-9 officer's dog later alerted to his car, although in the ensuing search, no drugs or other contraband were found in Saffold's car either.

OPINION

Plaintiff's claims sound under the Fourth Amendment, contending that (1) Sergeant Hamilton violated his rights against unreasonable searches by unlawfully directing Officer Maginot to frisk him; and (2) Officer Bailey also violated his rights by failing to intervene and prevent an unlawful frisk. In his motion for partial summary judgment, plaintiff specifically contends that the totality of the circumstances known to defendant Hamilton when she ordered the frisk did not support a reasonable suspicion that he was armed and dangerous; and defendant Bailey had reason to know her order was unconstitutional, but failed to intervene. Defendants cross-move for summary judgment contending that: Hamilton's order was lawful based on articulable facts supporting reasonable suspicion plaintiff Saffold was presently armed and dangerous; and because it was a legal frisk, Bailey had no duty to intervene. In the alternative, defendants assert that they are entitled to qualified immunity.

Courts apply the usual standards under Federal Rule of Civil Procedure 56 in reviewing cross-motions for summary judgment, while being careful to draw reasonable inferences in the correct direction when evaluating cross-motions. *Int'l Bhd. of Elec. Workers, Local 176 v. Balmoral Racing Club, Inc.*, 293 F.3d 402, 404 (7th Cir. 2002). Specifically, summary judgment must be granted "if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law," Fed. R.

Civ. P. 56(a), unless the nonmoving party responds with evidence showing the existence of a genuine issue of material fact, “such that a reasonable jury could return a verdict” against the moving party. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986).

In evaluating summary-judgment motions, courts must also view the facts and draw reasonable inferences in the light most favorable to the non-moving party. *Scott v. Harris*, 550 U.S. 372, 378 (2007). In particular, the court may not weigh conflicting evidence or make credibility determinations, *Omnicare, Inc. v. UnitedHealth Grp., Inc.*, 629 F.3d 697, 704 (7th Cir. 2011), and must consider only competent evidence of a type otherwise admissible at trial, *Gunville v. Walker*, 583 F.3d 979, 985 (7th Cir. 2009). Finally, determinations of probable cause or reasonable suspicion normally are mixed questions of fact and law, not suitable to be resolved on summary judgment, but when the material facts are undisputed as here, their ultimate resolution becomes questions of law. *United States v. Carlisle*, 614 F.3d 750, 754 (7th Cir. 2010).

I. Sergeant Hamilton’s Frisk Order

Liability under § 1983 extends to officers who cause a constitutional violation. *Brokaw v. Mercer Cty.*, 235 F.3d 1000, 1012 (7th Cir. 2000). “An official causes a constitutional violation if [they] set[] in motion a series of events that defendant knew or reasonably should have known would cause others to deprive plaintiff of constitutional rights.” *Id.*² Here, because Hamilton ordered Maginot to conduct the frisk after he had

² In their response, defendants assert that they should not be held liable for plaintiff’s allegations regarding the duration of and areas touched during non-defendant Maginot’s frisk, which were raised for the first time in plaintiff’s moving brief, arguing that these were not foreseeable based on Hamilton’s order and should have been alleged in his complaint. (Dkt. #46, at 30-32.) However,

been denied consent and turned away, a reasonable jury could only find that Hamilton caused the search and as discussed below, should have known it would violate plaintiff's constitutional rights. Accordingly, Hamilton may be held liable for Officer Maginot's subsequent search.

The Fourth Amendment prohibits unreasonable searches and seizures. U.S. Const. amend. IV. Under *Terry v. Ohio*, 392 U.S. 1 (1968), officers conducting an investigatory stop may take reasonable steps to assure the safety of himself and others, allowing them to frisk a detained individual for weapons when they reasonably believe that the suspect may be armed and poses a danger to the officer or others nearby. *Id.* at 30-31. However, reasonable suspicion is more than a hunch but less than probable cause; it must be drawn from specific, articulable facts and circumstances known to the officer at the time of the stop, including information relayed to him by fellow officers. *United States v. Snow*, 656 F.3d 498, 500-01 (7th Cir. 2011). Moreover, justifications may not be so general that they could be practically applied to any person that had been around the area when the officers showed up that night. *Doornbos v. City of Chicago*, 868 F.3d 572, 582 (7th Cir. 2017). Even drawing all reasonable inference in defendants' favor, no reasonable jury could conclude that Sergeant Hamilton's order was supported by reasonable suspicion.

because frisks are "a serious intrusion upon the sanctity of the person, which may inflict great indignity and arouse strong resentment, and [are] not to be undertaken lightly," *Terry*, 392 U.S. at 17, an officer that ordered an unlawful frisk may be held liable for the reasonably foreseeable injury caused by this privacy invasion. Because the parties' pending motions can be resolved without resolution of this issue, however, the court will reserve judgment and allow the parties to more fully brief the issue in their motions in limine before any trial on damages.

Defendants argue that Hamilton had reasonable suspicion because: (1) it was night time and plaintiff parked in a dark area; (2) plaintiff's car had a dark window tint; (3) Maginot had found plaintiff's evasive driving and answers regarding destination suspicious; (4) Maginot described plaintiff's eyes as "watery"; (5) Maginot had to keep asking plaintiff to keep his windows rolled down; (6) plaintiff had not pulled his car over to the curb; (7) plaintiff's criminal history included "[t]erroristic threats" and "message threats, resisting, obstructing"; (8) a K-9 unit was sent to conduct a drug investigation; (9) her observation that plaintiff was reluctant to follow the K-9 officer's order to exit his vehicle; (10) plaintiff was now out of his vehicle; and (11) plaintiff being significantly larger than herself. (Dkt. 46, at 22-23.) However, none of these considerations individually or as a group support a reasonable suspicion that plaintiff was presently armed and dangerous.

First, many of the facts known to Hamilton *only* suggest that a drug investigation may be appropriate. Indeed, many of the cases defendants rely on to support the relevance of these facts do not even *discuss* reasonable suspicion that a suspect was armed or dangerous. *United States v. Stewart*, 92 F.4th 461, 468-69 (3d Cir. 2024) (window tint and evasive answers supported extending stop for a drug investigation); *United States v. Osuna*, No. 4:21-CR-00251-BLW, 2022 WL 17975988 (D. Idaho Dec. 28, 2022) (suspect's watery eyes supported prolonging stop and conducting field sobriety tests); *United States v. Ahmed*, 825 F. App'x 589 (10th Cir. 2020) (suspect's failure to keep windows rolled down supported prolonging the stop for a drug investigation); *United States v. Thomas*, 817 F. App'x 902 (11th Cir. 2020) (suspect's reluctance to exit the vehicle supported prolonging stop based on suspicion of drug activity). Additionally, acknowledging that a K-9 unit was

sent and plaintiff had exited his vehicle merely describes routine parts of conducting a drug investigation, which the Seventh Circuit has held does *not* automatically justify a frisk of the suspect's person; rather, there must be reasonable suspicion that the suspect “may be armed and presently dangerous.” *United States v. Lopez*, 907 F.3d 472, 485 (7th Cir. 2018) (quoting *Terry*, 392 U.S. at 30).

Second, regardless of the inference that Sergeant Hamilton drew when Maginot reported on plaintiff's criminal history, knowledge of a suspect's criminal history or prior convictions is also not sufficient to support a reasonable articulable suspicion that a suspect is armed. *See Huff v. Reichert*, 744 F.3d 999, 1009 (7th Cir. 2014) (“neither a prior conviction nor presence in a high-crime area is alone sufficient for reasonable articulable suspicion that a suspect is armed”) (citing *United States v. Walden*, 146 F.3d 487, 490 (7th Cir. 1998); *U.S. ex rel. DeNegris v. Menser*, 360 F.2d 199, 203 (2d Cir. 1966) (“At best, [a prior arrest] only implies that the police suspected them of [illegal] activity at that” earlier time); *see also United States v. McGregor*, 158 F.4th 1082, 1101 (10th Cir. 2025), *cert. denied*, No. 25-6473, 2026 WL 490606 (U.S. Feb. 23, 2026) (criminal history becomes critically relevant when “the circumstances of the stop itself interact with an individual's criminal history to trigger an officer's suspicions”). Instead, there must be “other information” supporting an inference that a suspect is armed. *E.g., Walden*, 146 F.3d at 491 (“an officer with information that [a suspect] was involved in ‘gang crime activity’ and was ‘armed and dangerous’ could certainly believe that [the suspect] posed a potential threat to him.”)

Aside from plaintiff's reported criminal history, which included references to “[t]erroristic threats” and “message threats, resisting, obstructing,” the only “other

information” defendants rely on is that plaintiff was reluctant to exit his car and was “larger” than Hamilton. However, the intersection of this history and facts does not lead to a reasonable suspicion that plaintiff possessed a weapon. Additionally, this ignores other context known to Hamilton, which suggest that plaintiff was *not* armed or dangerous. Specifically, plaintiff exited his vehicle on his own; he kept his hands visible; he followed the officers’ direction to stand by Maginot’s squad car; he placed his hands on that car’s hood; he held his phone with his right hand, while allowing Sergeant Hamilton to hold his left arm without protest, much less resistance; and plaintiff was immediately outnumbered two to one, with two more officers present and engaged in the stop. This cooperation and lack of any hostility substantially dispel any suspicion that plaintiff would resist, much less was presently armed and dangerous.

Even drawing all inferences in defendants’ favor, therefore, no reasonable jury could infer that Hamilton’s decision to order a frisk was supported by reasonable suspicion that plaintiff was armed and dangerous. Moreover, as an officer with over 17 years of experience, a reasonable jury could only find that Hamilton should have known this frisk was improper. *See Huff*, 744 F.3d at 1010-11 (prior convictions and presence in a high-crime area did not support a reasonable suspicion to perform a frisk); *Lopez*, 907 F.3d at 485-86 (being the suspect of a drug investigation did not support a reasonable suspicion to frisk). Thus, plaintiff is entitled to judgment as a matter of law on his claim that Hamilton violated his Fourth Amendment rights against unreasonable searches and seizures.

In resisting this conclusion, defendants do cite some cases with overlapping factors

where a court in this circuit found that a protective pat down was supported by reasonable suspicion, but the limited overlap with the facts here make them readily distinguishable. Starting with the “nighttime traffic stop” in *United States v. Patton*, 705 F.3d 734 (7th Cir. 2013), the protective frisk took place at 1:30 a.m., involved a crowd of men observed consuming alcohol, was in an area with indications of gang violence, including a drive-by shooting one block away just two days earlier, and was performed on an individual who initially tried to remove himself from the crowd, then had stepped away from the officers. *Id.* at 738-39. None of these facts are present during plaintiff’s stop, which occurred at 9:30 p.m., with one suspect, no confirmed presence of drugs or alcohol, in a low-crime area, and a suspect who cooperated and did not attempt to flee.

Next, the “relevant characteristics of a location” in *Illinois v. Wardlow*, 528 U.S. 119 (2000), refers to the stop occurring in a “high crime area,” which justified officers searching a suspect who fled, unprovoked, upon seeing officers converge on the area. *Id.* at 124. Defendants’ attempt to draw a similar inference from plaintiff stopping his car in a traffic lane, as opposed to along the curb or in a nearby parking spot is wholly unpersuasive as a matter of law, because this was not a high crime area and plaintiff did not flee. Moreover, any concern that his manner of parking would allow him to flee more easily would be of no concern to an officer at the time of the search, since he was no longer in his car.

Further, regardless of the “well-established” connection between weapons and drugs referred to in *Cary v. City of Fond Du Lac*, No. 19-CV-498, 2021 WL 1381190 (E.D. Wis. Apr. 12, 2021), a protective pat down still requires other information for a reasonable officer to have reasonable suspicion that a suspect may be armed. *See United States v. Lopez*,

907 F.3d 472, 485 (7th Cir. 2018). In *Cary*, for example, the court’s holding was based in part on the suspect’s “persistent refusal to keep his hands out of his pockets,” which the court said “would lead a reasonable officer to be concerned that he might be armed.” 2021 WL 1381190, at *7. Only after this, did the court discuss the suspect’s violent offense convictions, the detected presence of drugs, and the suspect’s history as a drug dealer. *Id.* Once again, there are no similar facts preceding Sergeant Hamilton’s order to search plaintiff’s person: plaintiff kept his hands visible; there were no violent or drug offenses in his history; and the K-9 had not alerted to his car until after the frisk. Similarly, defendants’ reliance on *United States v. Brown*, 232 F.3d 589 (7th Cir. 2000), based on its consideration that the suspect had stepped out of his vehicle, does not support defendants’ position.

In *Brown*, the Seventh Circuit was confronted with a “close question” on reasonable suspicion given a “lack of specific facts indicating that [the suspect] possessed a weapon.” *Id.* at 592. The district court nevertheless found reasonable suspicion that the suspect was armed because of: his strange behavior during the day; loose clothing; where the stop occurred; and “the reality that [the suspect] was going to be outside of his vehicle for the sobriety tests and not in physical custody.” *Id.* at 592. However, in affirming the district court’s decision, the Seventh Circuit did not discuss this last fact at all, focusing instead on the suspect’s erratic behavior from earlier that day and during the stop. *Id.* at 594. In particular, the Seventh Circuit emphasized that when the officer frisked the suspect, he knew the suspect: had used his vehicle as a battering ram; had been reported drunk four hours earlier; had observable slow eye movement and deliberate, slurred speech; and just prior to the stop, was uncooperative. *Id.* at 592. Based on these facts, the Seventh Circuit

held that “a reasonable police officer would have wondered whether Brown posed a threat to himself or herself or others.” *Id.* at 595. Even then, the Seventh Circuit cautioned *against* “read[ing] into the opinion any implicit approval of the frisking of drivers during routine traffic stops for drunk driving.” *Id.* at 592. Accordingly, as here, where the facts indicate that this was a routine investigation, which required plaintiff to get out of his car, Hamilton’s order to frisk was *not* supported by reasonable suspicion.

Finally, defendant Hamilton is not entitled to qualified immunity for her order to have plaintiff frisked. Because defendant Hamilton asserts qualified immunity, plaintiff must show not only that she violated his rights, but also that those rights were clearly established at the time. Plaintiff can show that a defendant’s conduct violated clearly established law by pointing to either: (1) a closely analogous, binding case that was decided in his favor; or (2) a more general constitutional rule that applies “with obvious clarity” to the defendant’s conduct. *Cibulka v. City of Madison*, 992 F.3d 633, 639-40 (7th Cir. 2021).

In cases like this one, in which the general constitutional rule is clearly established, the question of whether there is a Fourth Amendment violation is sometimes phrased as whether there was “arguable reasonable suspicion.” However, arguable reasonable suspicion is established “when ‘a reasonable police officer in the same circumstances and possessing the same knowledge as the officer in question could have reasonably believed that [reasonable suspicion] existed in light of well-established law.’” *Minett v. Overwachter*, 433 F. Supp. 3d 1084, 1092 (W.D. Wis. 2020) (citing *Fleming v. Livingston Cnty., Ill.*, 674 F.3d 874, 880 (7th Cir. 2012)). In light of well-established law, no reasonable officer would have believed that reasonable suspicion existed given the same circumstances and

knowledge as Sergeant Hamilton.

The general constitutional rule is well established that an officer may not frisk a suspect unless it is supported by a reasonable suspicion the suspect is armed. *See Huff*, 744 F.3d at 1010 (affirming the denial of qualified immunity for defendant’s search of plaintiffs “[because] there was no reason to suspect that either plaintiff was armed”). This is true even if the suspect is the subject of a drug investigation, *Lopez*, 907 F.3d at 485-86, has prior convictions, *Huff*, 744 F.3d at 1010-11, or is present in a high-crime area, *id.* Here, no reasonable officer in Hamilton’s situation could have believed that reasonable suspicion existed, because there was no information or reason to suspect plaintiff was armed, *other than* those previously found wanting by the Seventh Circuit, especially where plaintiff exhibited *no* hostile or erratic behavior *and* other officers were present and in control of the scene. Accordingly, Hamilton is not entitled to qualified immunity and plaintiff’s claims against her will proceed to a trial on damages.

II. Bailey

Under *Yang v. Hardin*, 37 F.3d 282 (7th Cir. 1994), an officer can be liable for failing to intervene and prevent a constitutional violation committed by another.

An officer who is present and fails to intervene to prevent other law enforcement officers from infringing the constitutional rights of citizens is liable under § 1983 if that officer had reason to know . . . that any constitutional violation has been committed by a law enforcement official; and the officer had a realistic opportunity to intervene to prevent the harm from occurring.

Id. at 285.

During the stop, Officer Bailey heard Maginot's full report, observed the same behaviors as Hamilton, examined the interior of plaintiff's car through its windows, and had a brief exchange with plaintiff, arguably giving Bailey even more information than Hamilton. Because Bailey had more information and admitted during his deposition that he did not believe that plaintiff was armed, plaintiff argues that Bailey had reason to know that frisking plaintiff was unconstitutional, making him liable under § 1983 when he did not intervene. However, this ignores a highly relevant fact: during this stop, Sergeant Hamilton was still training Bailey, who was still learning what information and knowledge supports inferences and actions an officer may take -- thus, rewriting what he "knows" in real time. Even if Bailey did not suspect that plaintiff was armed, giving him reason to know a frisk would be a constitutional violation, it is reasonable to infer that Hamilton ordering a fellow officer, Maginot, to conduct a frisk would change what Bailey (or any other officer receiving training) "knows" with regard to whether a constitutional violation was taking place. Certainly, a trainee cannot be idle for *every* act of their trainer that they believe violates the Constitution, or conclude they have *no* duty to intervene. However, a trainee would expect that orders issued by their training officer are lawful, and especially when not being ordered to engage in a questionable act themselves, even if arguably improper, could reasonably avoid interfering for fear of undermining effective law enforcement practices *and* recognized chain of command. This inference alone is sufficient to deny plaintiff's motion for partial summary judgment for his claim against Bailey.

However, the analysis does not stop there, because while the law is clear that the "responsibility to intervene applies equally to supervisory and nonsupervisory officers," *id.*,

plaintiff has identified no law demonstrating that it applies to *officer trainees* when the senior officer training them violates a suspect's rights. Perhaps this is the type of case, where but for an order from a training officer, the officer in training had reason to know that a constitutional violation was being committed *or* where a new officer is far enough along in their training for that fact not to matter, it is appropriate to hold them accountable for failing to intervene. However, plaintiff has not demonstrated that there is clearly established law that an officer in training has a duty to intervene against the orders of their senior, training officer. Accordingly, Bailey is also entitled to qualified immunity and plaintiff's claims against him will be dismissed.

ORDER

IT IS ORDERED that:

- 1) Plaintiff Caleb Saffold's motion for partial summary judgment on liability (dkt. #35) is GRANTED as to his claim against defendant Meg Hamilton and DENIED as to his claim against defendant Richard Bailey.
- 2) Defendants' motion for summary judgment (dkt. #41) is GRANTED as to plaintiff's claim against defendant Bailey, who is DISMISSED from this case, and DENIED as to plaintiff's claim against defendant Hamilton who must proceed to a damages trial on the Fourth Amendment claim brought against her.

Entered this 2nd day of June, 2026.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge