

**No. SC-2025-0372**

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**IN THE SUPREME COURT OF ALABAMA**

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*MICHAEL JEROME JENNINGS,  
Plaintiff/Petitioner,*

*v.*

*CHRISTOPHER SMITH, JUSTIN GABLE, JEREMY BROOKS,  
AND CITY OF CHILDERSBURG,  
Defendants/Respondents.*

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Certified Question from the U.S. District Court for the Northern  
District of Alabama, Case No. 1:22-cv-01165-RDP

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**BRIEF OF PLAINTIFF/ PETITIONER**

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## **STATEMENT REGARDING ORAL ARGUMENT**

Oral argument will assist the Court in maintaining a focus on the established law as it applies to the facts.

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Ala. Code § 13A-10-2

## INTRODUCTION

On the evening of May 22, 2022, around 6:29 p.m., Michael Jerome Jennings (referred to as “Mr. Jennings of Plaintiff”) was tending to his neighbors' flowers when Officer Christopher Smith (designated as “Officer Smith of Defendant Smith”) from the Childersburg Police Department in Alabama approached him. Although Mr. Jennings was actively watering the flowers with a hose, Officer Smith inquired about his presence at the neighbor's residence. Mr. Jennings clarified that he was watering flowers. Officer Smith insisted that Mr. Jennings provide his identification or driver's license. Mr. Jennings identified himself as “Pastor Jennings,” a resident across the street, and explained he was authorized to tend to the flowers while his neighbors were away. Eventually, Mr. Jennings was arrested and detained by Officer Smith without any justifiable probable cause, simply for not presenting his identification. The entire encounter was recorded by body cameras worn by the officers during the incident, leaving no factual discrepancies regarding the events.

In Edger and Jennings, the Eleventh Circuit ruled that Ala Code § 15-5-30 clearly does not permit a law enforcement officer to require an individual to present their physical identification card or driver's license during a pedestrian/non-motor vehicle investigative stop.

## **STATEMENT OF FACTS**

### **I. The arrest of Pastor Jennings**

On May 22, 2022, at approximately 6:20 p.m., the Talladega County Emergency Management Communications District received a 911 call from a caller who identified herself as “Amanda” requesting police officers to check on a neighbor's home. [ECF No. 51-1 at pg. 3]. Notably, Amanda admitted to the 911 operator that she was not sure if someone was supposed to be at her neighbor's house and she is not saying whoever is over there should not be there. [ECF No. 51-1 at pg. 3]. Childersburg Police Officer Christopher Smith (“Defendant Smith”) was dispatched on the call and arrived about five minutes later to the residence. [ECF No. 51-1 at pg. 2]. When Defendant Smith first arrived on the scene and before he activated his body worn camera, Pastor Jennings had a water hose in his hand watering his neighbor Roy's flowers. [ECF No. 51-1 at

pg. 2]. When asked what he was doing on the property, Pastor Jennings responded, “watering flowers.” [ECF No. 51-1 at pg. 13]. Defendant Smith then asked if Pastor Jennings lived at the residence; Pastor Jennings responded he did not. [ECF No. 51-1 at pg. 13]. Defendant Smith explained someone had called 911 and reported that Pastor Jennings was not supposed to be on the property. [ECF No. 51-1 at pg. 3]. Pastor Jennings responded, “I’m supposed to be here. I’m Pastor Jennings. I live across the street.... I’m looking out for the house while they gone, I’m watering they flowers.” [ECF No. 51-1 at pg. 5]. At this point, Defendant Smith asked Pastor Jennings if he had any form of identification. [ECF No. 51-1 at pg. 4]. Notably, at the time Defendant Smith asked for the Pastor Jennings’ identification, Defendant Smith made a hand gesture clearly indicating he was asking for the Pastor Jennings’ ID card or driver’s license. [ECF No. 51-1 at pg. 5]. Subsequently, Childersburg Police Officer Justin Gable (“Defendant Gable”) arrived at the scene. Pastor Jennings reiterated that he was not going to show them his I.D. [ECF No. 51-1 at pg. 7].



The Defendant Officers arrested Pastor Jennings and placed him in the back of a police cruiser. [ECF No. 69-1 at pg. 3]. They charged him with obstructing governmental operations, in violation of Ala Code § 13A-10-2(a), based on a claim that Jennings had committed an independent unlawful act by failing to identify himself to intentionally prevent investigation. [ECF No. 51-1 at pg. 8].

Further, Defendant Smith acknowledged in his written report and statement, that he asked for the Pastor Jennings' driver's license so he could identify Pastor Jennings. [ECF No. 50-2. at pg. 2 and 10]. According to the Pastor Jennings' arrests warrant, he was charged for failing to *provide* officers with identification when repeatedly asked, intentionally hindering officers' investigation of a 911 call in violation of Ala. Code § 13A-10-2. [See ECF No. 50-2. at Pg. 8]. Defendants Smith and Gable both told Amanda that Defendant Smith wanted Pastor Jennings' identification and not the Pastor Jennings' name. [ECF No. 51-1 at pg. 8]. In fact, Defendant Brooks disclosed to Amanda that all Pastor Jennings' had to do is give them the reason why he was there, and his I.D. and they would have left. [ECF No. 51-1 at pg. 8]. On June 1, 2022, and

upon a motion made by the City of Childersburg's prosecutor and prior to Pastor Jennings' scheduled court date of July 13, 2022, the Childersburg Municipal Court dismissed Pastor Jennings' charge of intentionally hindering officers' investigation of a 911 call in violation of Ala. Code § 13A-10-2 with prejudice. [ECF No. 50-2 at pg. 9].

## **II. Procedural History**

On September 9, 2022, the Plaintiff Michael Jennings filed suit against Defendants Jeremy Brooks, Justin Gable, Christopher Smith and the City of Childersburg, Alabama. [ECF No. 1] On May 12, 2023, Defendant Childersburg filed a motion to dismiss Plaintiff's complaint. [ECF No. 46] The same day Defendants Brooks, Gable, and Smith filed a motion for summary judgment. [ECF No. 48] On May 26, 2023, the Plaintiff filed a response to Defendants Brooks, Gable, and Smith's motion for summary judgment and Childersburg's motion to dismiss. [ECF No. 51 and 52]. On September 28, 2023, the district court ordered the parties to submit supplemental briefs addressing what effect the Edger decision has on the Defendants' motions currently before

the court.<sup>1</sup> [ECF No. 57] On October 4, 2023, the Plaintiff filed a Supplemental Brief addressing what effect the Edger decision has on the Defendants Officers' Motion for Summary Judgment.[ECF No. 58]. On December 21, 2023, the district court granted Defendants Brooks, Smith and Gable's motion for summary judgment and Defendant Childersburg's motion to dismiss. [ECF No. 61 and 63] On the same day, the Plaintiff filed a timely notice of appeal. [ECF No. 64] appealed to the Eleventh Circuit.

The Eleventh Circuit reversed the district court and remand the case. [ECF No. 69] Notably, the Eleventh Circuit held:

While it is always advisable to cooperate with law enforcement officers, Jennings was under no legal obligation to provide his ID. Therefore, officers lacked probable cause for Jennings' arrest for obstructing government operations because Jennings did not commit an independent unlawful act by refusing to give ID. Additionally, because Edger explained that Alabama Code § 15-5-30 was, and is, clearly established law, 84 F.4th at 1239, these officers lacked even arguable probable cause. Accordingly, we reverse the district court's grant of summary judgment on Jennings' unlawful arrest claim because the officers are not entitled to qualified immunity.

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<sup>1</sup> Edger v. McCabe, 83 F.4th 858 (11th Cir. 2023).

Jennings v. Smith, 23-14171 (11) (11th Cir. Sep 27, 2024)

On remand from the Eleventh Circuit, the district court concluded that the holding in the Eleventh Circuit's unpublished opinion in Metz v. Bridges, 2024 WL 5088586 (11th Cir. Dec. 12, 2024) (per curiam), created uncertainty how Ala Code § 15-5-30 should be interpreted. See Memorandum Opinion and Order at 12, Jennings, 1:22-cv-01165-RDP (N.D. Ala. May 19, 2025) [ECF No. 83]. In support of that conclusion, the district court contrasted the Eleventh Circuit's decisions in Edger and Jennings with its unpublished decision in Metz. On that basis, the district court certified the following question to this Court:

Under Alabama Code § 15-5-30, when a law enforcement officer asks a person for his name, address, and explanation of his actions, and the person gives an incomplete or unsatisfactory oral response, does the statute prohibit the officer from demanding or requesting physical identification?

See Certification of Question at 2, Jennings, 1:22-cv-01165-RDP (N.D. Ala. May 22, 2025) [ECF No. 84].

## SUMMARY OF THE ARGUMENT

In Edger and Jennings, the Eleventh Circuit ruled that Ala. Code § 15-5-30 clearly does not permit a law enforcement officer to require an individual to present their physical identification card or driver's license during a non-motor vehicle investigative stop. Further, Ala. Code § 15-5-30 is unambiguous, eliminating the need for judicial interpretation. Additionally, it is widely understood that stop and identify statutes, which are prevalent across the nation, do not mandate individuals who are stopped to show identification or any other form of documentation. See Hiibel v. Sixth Jud. Dist. Ct. of Nevada, Humboldt Cnty. , 542 U. S. 177, 182-83, 185 (2004). Moreover, if Ala Code § 15-5-30 permits a law enforcement officer to demand or ask for physical identification when a law enforcement officer asks a person for his name, address, and explanation of his actions, and the person gives an incomplete or unsatisfactory oral response, then Ala Code § 15-5-30 is unconstitutionally vague according to the Due Process Clause of the Fourteenth Amendment. Finally, Finally, the certified question by this

Court does not meet the criteria of a determinative question as required by Alabama Rules of Appellate Procedure Rule 18. (a).

## ARGUMENT

### **I. Ala. Code §15-5-30 is unambiguous, eliminating the need for judicial interpretation.**

The examination of Ala. Code § 15-5-30 needs to start and conclude with its plain meaning, which clearly does not permit police officers to demand physical identification from pedestrians. The issue to be decided in this case is ultimately one of statutory interpretation. The cardinal rule of statutory interpretation is to determine and give effect to the intent of the legislature as manifested in the language of the statute.' " ' Ex parte Moore, 880 So. 2d 1131, 1140(Ala. 2003) (quoting Ex parte Weaver, 871 So. 2d 820, 823 (Ala. 2003), quoting in turn Ex parte State Dep't of Revenue, 683 So. 2d 980, 983 (Ala. 1996) ). 'In any case involving statutory construction, our inquiry begins with the language of the statute, and if the meaning of the statutory language is plain, our analysis ends there.' Ex parte McCormick, 932 So. 2d 124, 132 (Ala. 2005). Ala. Code § 15-5-30, by its plain text, does not permit law

enforcement to demand physical identification. Ala. Code § 15-5-30 reads:

A sheriff or other officer acting as sheriff, his deputy or any constable, acting within their respective counties, any marshal, deputy marshal or policeman of any incorporated city or town within the limits of the county or any highway patrolman or state trooper may stop any person abroad in a public place whom he reasonably suspects is committing, has committed or is about to commit a felony or other public offense and may demand of him his name, address and an explanation of his actions.

Ala. Code § 15-5-30.

Further, in Edger and Jennings, the Eleventh Circuit ruled that Ala. Code § 15-5-30 *clearly* does not permit a law enforcement officer to require an individual to present their physical identification card or driver's license during a pedestrian investigative stop. In Edger the Eleventh Circuit opined:

**We hold that the plain text of the Alabama statute is so clear that no reasonable officer could have interpreted it to permit Mr. Edger's arrest for failing to produce his "ID" or "driver's license" under § 15-5-30.**

Edger, at 866.(Emphasis added).

**A. The Eleventh Circuit’s unpublished opinion in Metz does not create any uncertainty on how Ala Code § 15-5-30 should be interpreted.**

The unpublished opinion from the Eleventh Circuit in Metz does not in any way weaken the decisions in Edger or Jennings nor does it introduce any ambiguity regarding the interpretation of Ala Code § 15-5-30. Unlike Metz, Pastor Jennings was arrested not because he did not reveal his identity as required by Ala. Code §15-5-30, but instead for failing to present a physical identification or driver's license after a valid Terry stop.<sup>2</sup> In Metz, Officer Bridges had arguable reasonable suspicion to detained. Metz at. 10. Officer Bridges legitimately stopped Metz, he was permitted to inquire about Metz's name, address and an explanation of his actions, and to make an arrest if Metz declined to answer in accordance with Ala. Code §15-5-30. Notably, Pastor Jennings was arrested for failing to present a physical identification or driver's license after a valid Terry stop. Moreover, the Court in Metz did not state that the officer could arrest Metz specifically for failing to supply physical identification or driver license.

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<sup>2</sup> Terry v. State of Ohio, 392 U.S. 1 (1968).



**II. If Ala Code § 15-5-30 permits a law enforcement officer to demand or ask for physical identification when a law enforcement officer asks a person for his name, address, and explanation of his actions, and the person gives an incomplete or unsatisfactory oral response, then Ala Code § 15-5-30 is unconstitutionally vague according to the Due Process Clause of the Fourteenth Amendment.**

If this Court interpret Ala Code § 15-5-30 to authorize a law enforcement officer to demands for physical ID when someone gives “incomplete or unsatisfactory” oral responses would render Ala Code § 15-5-30 unconstitutionally vague under Kolender v. Lawson, 461 U.S. 352 (1983). Kolender addressed a California law requiring suspects to give “credible and reliable” identification. Id. at 353. The U.S. Supreme Court deemed the statute void for vagueness, in violation of due process, because it “contain[ed] no standard for determining what a suspect has to do in order to satisfy the requirement to provide a ‘credible and reliable’ identification.” Id. at 358. Instead, “the statute vest[ed] virtually complete discretion in the hands of the police to determine whether the suspect has satisfied the statute.” Id.

Interpreting Ala Code § 15-5-30 as necessitating that suspects present some type of physical identification in cases where they provide

“incomplete or unsatisfactory” verbal answers would exacerbate the flaws inherent in that statute, even more so than the identification regulations challenged in Kolender. The phrases “incomplete or unsatisfactory” lack clarity and specificity, much like “credible and reliable.” Furthermore, contrary to the situation in Kolender, the terminology “incomplete and unsatisfactory” is not included in Ala Code § 15-5-30 being examined here. Consequently, permitting law enforcement to demand documents during interrogation based on a vague criterion that is not mentioned in the statute would render Ala Code § 15-5-30 overly ambiguous and unconstitutional.

**III. Finally, the certified question by this Court does not meet the criteria of a determinative question as required by Alabama Rules of Appellate Procedure Rule 18. (a).**

The district court concluded the question framed in the separately entered Certification of Question is appropriate for certification because (1) it will resolve questions of law that are determinative of this case. More specifically, the district court held that the certified question may determine the outcome of the case before the district court because it will resolve whether there was probable cause for officers to arrest an

individual for violating Ala Code § 15-5-30, when that individual gave incomplete responses when asked his name and refused to provide physical identification. See Memorandum Opinion and Order at 1-2, Jennings, 1:22-cv-01165-RDP (N.D. Ala. May 19, 2025) [ECF No. 83].

The district court is incorrect in every respect. First, the way the certified question has been framed for this Court strays from the true events that took place in the underlying case. The Defendants Officers did not ask Pastor Jennings his name, address, and explanation of his actions, they immediately demand for him to produce a physical I.D. or driver's license.

The Eleventh Circuit in Jennings held:

[H]ere, the officers never asked the fundamental questions in trying to ascertain a person's full name or address: "What is your name?" or "What is your address?" Even if there are no "magic words" that an officer must utter, Edger, 84 F.4th at 1239, it must be obvious that officers actually seek a name, address, and explanation. Given that Jennings had already told officers he was "Pastor Jennings," he lived across the street, and he was there to water his neighbors' flowers, the officers' subsequent commands for Jennings to "identify himself" and statements that "you have to identify yourself to me" were clearly requests for something more-physical identification.

Jennings at 10

Consequently, even if this Court determines that Ala Code § 15-5-30 allows a law enforcement office to demand or request a physical identification from a person who give incomplete or unsatisfactory response after being prompted to provide his/her name, address, and an explanation of his/her during a Terry stop, it will not resolve legal questions that are dispositive of this case before this Court. The certified question as frame has a prerequisite for an individual to provide an incomplete or unsatisfactory response before the existence of probable cause to arrest an individual for falling to physical identification. As stated above, Pastor Jennings was not afforded with an opportunity to give his name, address, and explanation of his actions. Instead, the Defendant Officers demanded Pastor Jennings physical identification ab initio and throughout his encounter with the Defendant Officers. Therefore, the certified question as framed still don't establish probable cause to support the arrest Pastor Jennings and fail to meet the criteria of a determinative question as required by Alabama Rules of Appellate Procedure Rule 18. (a).

## CONCLUSION

Based on the above, the Petitioner respectfully submit that this Court should answer the certified question in the negative and hold, consistent with the Eleventh Circuit's decision in Edger, that Ala Code 15-530 does not authorize demands for physical identification.

Respectfully submitted this 15<sup>th</sup> day of August 2025.

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## **CERTIFICATE OF COMPLIANCE**

I certify that this brief complies with the word limitation set forth in Alabama Rules of Appellate Procedure 29(c) and 28(j). Microsoft Word's word-count function indicates that this brief contains 2888 words. I also certify this petition's compliance with the font requirements set forth in Alabama Rule of Civil Procedure 32(a)(7). The petition was prepared in Century Schoolbook font using 14-point type.

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## **CERTIFICATE OF SERVICE**

I hereby certify that on August 15, 2025, I filed the foregoing with the Clerk of the Court using the electronic filing system and served a copy on the following counsel by e-mail:

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APPENDIX FOR PLAINTIFF/ PETITIONER

ECF No. 50-2.....App 001

ECF No. 51-1.....App 013

ECF No.....App 044

2023 May-16 PM 06:35  
U.S. DISTRICT COURT  
N.D. OF ALABAMA

## ALABAMA UNIFORM ARREST REPORT

DOMESTIC VIOLENCE  
DUAL ARREST  
☐

Fingerprinted

☐ Yes  
☒ No

R84 Completed

☐ Yes  
☒ No

OFFICER'S WORK PRODUCT MAY NOT BE PUBLIC INFORMATION

IDENTIFICATION

ARREST

VEHICLE

JUVENILE

RELEASED

MULTIPLE  
CASES  
CLOSED

112

1 ORI # AL0610300		2 Agency Name Childersburg PD		3 Case # 220500122		4 SFX 1	
5 Last, First, Middle Name JENNINGS, MICHAEL JEROME				6 Alias AKA			
7 Sex <input checked="" type="checkbox"/> M <input type="checkbox"/> F	8 Race <input type="checkbox"/> W <input checked="" type="checkbox"/> B <input type="checkbox"/> A <input type="checkbox"/> I	9 Ethnicity <input type="checkbox"/> Hispanic <input checked="" type="checkbox"/> Non-Hispanic <input type="checkbox"/> Other	10 Hgt 5' 07"	11 Wgt 172	12 Eye BRO	13 Hair BLK	14 Skin DBR
16 Place of Birth (City, County, State, Country) Sylacauga, Talladega, AL, US			17 SSN [REDACTED]	18 Date of Birth [REDACTED]	19 Age [REDACTED]	20 Miscellaneous ID #	
21 SID#		22 Fingerprint Class Key Major Primary SCDV Sub-Secondary Final				23 DL # 5202240	
25 FBI #		26 Identification Comments				24 St AL	
27 <input checked="" type="checkbox"/> Resident <input type="checkbox"/> Non-Resident		28 Home Address (Street, City, State, Zip) 411 6TH AVE SW, Childersburg, AL 35044			29 Residence Phone (256) 404-2115		30 Occupation (Be Specific) Pastor
31 Employer (Name of Company/School) Vision of Abundant Life			32 Business Address (Street, City, State, Zip) Sylacauga, AL 35150			33 Business Phone	
34 Location of Arrest (Street, City, State, Zip - County) 505 5th Ct. SW, Childersburg, AL 35044 - Talladega			35 Sector #		36 Arrested for your Jurisdiction? <input type="checkbox"/> In State <input checked="" type="checkbox"/> Out of State Agency Childersburg Police Dept		
37 Condition of Arrestee: <input type="checkbox"/> Drunk <input type="checkbox"/> Drinking <input checked="" type="checkbox"/> Sober <input type="checkbox"/> Drugs		38 Resist Arrest? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		39 Injuries? <input checked="" type="checkbox"/> None <input type="checkbox"/> Officer <input type="checkbox"/> Arrestee		40 Armed? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
42 Date of Arrest 05/22/2022		43 Time of Arrest 18:29 <input type="checkbox"/> AM <input checked="" type="checkbox"/> MIL <input type="checkbox"/> PM		44 Day of Arrest S M T W T F S <input checked="" type="checkbox"/> S		45 Type of Arrest? <input checked="" type="checkbox"/> On-View Arrest <input type="checkbox"/> Taken Into Custody <input type="checkbox"/> Summoned/Cited	
46 Arrested Before? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown		47 Charge - 1 <input type="checkbox"/> Fel <input checked="" type="checkbox"/> Misd Governmental Operations		48 UCR Code 5099		49 Charge - 2 <input type="checkbox"/> Fel <input type="checkbox"/> Misd	
51 State Code/Local Ordinance 13A-10-2		52 Warrant #		53 Date Issued		54 State Code/Local Ordinance	
55 Warrant #		56 Date Issued		57 Charge - 3 <input type="checkbox"/> Fel <input type="checkbox"/> Misd		58 UCR Code	
59 Charge - 4 <input type="checkbox"/> Fel <input type="checkbox"/> Misd		60 UCR Code		61 State Code/Local Ordinance		62 Warrant #	
63 Date Issued		64 State Code/Local Ordinance		65 Warrant #		66 Date Issued	
67 Arrest Disposition <input type="checkbox"/> Hold <input type="checkbox"/> Bail <input type="checkbox"/> Released		68 If Out On Release What Type?		69 Arrested with (1) Accomplice (Full Name)			
70 Arrested with (2) Accomplice (Full Name)				71 VYR			
72 VMA		73 VMO		74 VST		75 VCO Top Bottom	
76 Tag #		77 LIS		78 LIY		79 VIN	
80 Impounded? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No							
81 Storage Location/Impound #							
82 Other Evidence Seized/Property Seized							
83 Juvenile Disposition: <input type="checkbox"/> Handled and Released <input type="checkbox"/> Ref. to Juvenile Court <input type="checkbox"/> Ref. to Welfare Agency <input type="checkbox"/> Ref. to Adult Court <input type="checkbox"/> Ref. to Other Police Agency							
84 Released To				85 Parent or Guardian (Last, First, Middle, Name)			
86 Address (Street, City, State, Zip)				87 Phone			
88 Parents Employer				89 Occupation			
90 Address (Street, City, State, Zip)				91 Phone			
92 Date and Time of Release <input type="checkbox"/> AM <input checked="" type="checkbox"/> MIL <input type="checkbox"/> PM		93 Releasing Officer Name		94 Agency/Division		95 ID#	
96 Released To		97 Agency/Division		98 Agency Address			
99 Personal Property Released to Arrestee <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Partial		100 Property Not Released/Held At:		101 Property #			
102 Remarks (Note Any Injuries at Time of Release) \$500.00 Secure Bond							
103 Signature of Receiving Officer							
104 Signature of Releasing Officer				Local Use		State Use	
105 Case #		106 SFX		107 Case #		108 SFX	
109 Case #		110 SFX		111 CONTINUATION <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		112	
112 Arresting Officer (Last, First, M.) Officer C. Smith		113 ID # 313		114 Assisting Officer (Last, First, M.) Officer J. Gable		115 ID # 314	
116 Supervisor Sergeant J. Brooks		117 Watch Cmdr. # 309		118			

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App001

2023-05-16

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# ADDITIONAL ARREST NARRATIVE CONTINUED

118 Date And Time of Arrest

05/22/2022 18:29

☐ AM☐ PM☒ MIL

119 Case #

220500122

120 SFX

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Page # 2

ON 05/22/2022 I OFFICER SMITH, WAS DISPATCHED TO 401 5TH CT SW IN REFERENCE TO A SUSPICIOUS VEHICLE IN THE YARD THAT WASN'T SUPPOSE TO BE THERE. UPON MY ARRIVAL I MADE CONTACT WITH THE GOLD CHEVY TAHOE AND A B/M LATER IDENTIFIED AS MICHAEL JENNINGS. I ASKED MICHAEL WHAT HE WAS DOING HERE. MICHAEL STATED THAT HE WAS WATERING THE FLOWERS FOR THE NEIGHBOR WHILE THEY WERE OUT OF TOWN. I ASKED MICHAEL DID HE LIVE HER MICHAEL SAID "NO" I ASKED HIM WAS THE TAHOE HIS, MICHAEL SAID "NO IT WAS THE NEIGHBORS". I ASKED MICHAEL FOR HIS DRIVER LICENSE. MICHAEL STATED TO ME HE DIDN'T HAVE TO GIVE ME HIS DRIVER LICENSE BECAUSE HE HASN'T COMMITTED ANY CRIME. I STATED TO MICHAEL THAT I WAS THERE BECAUSE I WAS CALLED FOR A SUSPICIOUS VEHICLE AND A SUSPICIOUS PERSON IN THE YARD THAT'S NOT SUPPOSE TO BE THERE. MICHAEL STARTED TO GET BELLIGERENT WITH ME AND BEGIN TO WALK AWAY FROM ME. OFFICER GABLE ARRIVED ON SCENE AND TRIED TO TALK TO MICHAEL BUT MICHAEL KEPT SAYING THAT WE DIDN'T HAVE A REASON TO BE TALKING TO HIM AND THAT HE DIDN'T HAVE TO IDENTIFY HIMSELF TO US. OFFICER GABLE AND MYSELF DETAINED THE MICHAEL. SGT. BROOKS ARRIVED ON SCENE AND TRIED TO TELL MICHAEL THE REASON WHY WE WAS THERE, BUT MICHAEL SAID THAT WE WAS RACIAL PROFILING HIM AND HE WAS GOING TO GET A LAWSUIT ON CHILDERSBURG POLICE DEPARTMENT. SGT. BROOKS TRIED AGAIN TALKING TO MICHAEL BUT MICHAEL STATED THAT SGT BROOKS NEEDED TO QUIT TALKING TO HIM LIKE A LITTLE BOY. I PLACED MICHAEL UNDER ARREST FOR OBSTRUCTING GOVERNMENTAL OPERATIONS AND MICHAEL WAS PLACED IN THE BACK OF OFFICER GABLE CAR. AFTER TALKING WITH THE CALLER OF THE CALL AMANDA WHO WOULD NOT PROVIDE HER LAST NAME SHE STATED THAT SHE DIDN'T KNOW THAT IT WAS MICHAEL AT FIRST AND STATED THAT MICHAEL AND THE RESIDENCE AT 505 5TH CT SW WAS GOOD FRIENDS AND THAT SHE MADE A MISTAKE. MICHAEL WAS TRANSPORTED TO CHILDERSBURG POLICE DEPARTMENT BY OFFICER GABLE FOR BOOKING AND I TRANSPORTED MICHAEL TO TALLADEGA COUNTY JAIL WITHOUT ANY INCIDENT.

TYPE OR PRINT IN BLACK INK ONLY

App002

OFFICER'S WORK PRODUCT MAY NOT BE PUBLIC INFORMATION

<b>ADDITIONAL ARREST INFORMATION</b>	<b>118 Date And Time of Arrest</b>		<input type="checkbox"/> AM <input checked="" type="checkbox"/> MIL	<b>119 Case #</b>	<b>120 SFX</b>
	05/22/2022 18:29		<input type="checkbox"/> PM	220500122	1
					<b>Page #</b> 3

**Assisting Officer(s)**

<b>Assisting Officer</b> 309 - Sergeant J. Brooks
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## ALABAMA UNIFORM INCIDENT/OFFENSE REPORT

1 ORI # <b>AL0610300</b>		2 Date of Report <b>05/22/2022</b>		3 Time of Report <b>18:59</b>		4 Type Report <input checked="" type="checkbox"/> INCIDENT <input type="checkbox"/> OFFENSE <input type="checkbox"/> SUPPLEMENT		5 Supplement Date		6 Agency Case Number <b>220500122</b>		7 Suffix <b>1</b>							
8 Agency Name <b>Childersburg PD</b>										9 Sector									
10 Type of Incident or Offense <input type="checkbox"/> Felony <input checked="" type="checkbox"/> Misdemeanor <input type="checkbox"/> Attempted <input checked="" type="checkbox"/> Completed <b>Governmental Operations</b>										11 Degree (Circle) <b>1 2 3 4</b>		12 UCR Code <b>5099</b>		13 State Code/Local Ordinance <b>13A-10-2</b>					
14 Type of Incident or Offense <input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor <input type="checkbox"/> Attempted <input type="checkbox"/> Completed										15 Degree (Circle) <b>1 2 3 4</b>		16 UCR Code		17 State Code/Local Ordinance					
18 Place of Occurrence <input type="checkbox"/> Check here if event occurred at victim's residence <b>505 5th Ct. SW, Childersburg, AL 35044</b>										Victim Demographics (Where victim is an individual)									
If offense occurred at victim's residence, then only the approximate location should be listed in this section. (For example, a block number should be entered) If the offense occurred elsewhere, then the specific address should be listed here.										19 Sex <input type="checkbox"/> M <input type="checkbox"/> F		20 Race <input type="checkbox"/> W <input type="checkbox"/> A <input type="checkbox"/> B <input type="checkbox"/> I		21 Ethnicity <input type="checkbox"/> Hispanic <input type="checkbox"/> Other		22 Multiple Victims <input type="checkbox"/> LE Officer		23 Age	
										24 Offender Suspected of Using <input type="checkbox"/> Alcohol <input type="checkbox"/> Computer Equipment <input checked="" type="checkbox"/> Drugs <input type="checkbox"/> N/A		25 Juvenile Gang <input type="checkbox"/> Other Gang <input type="checkbox"/> None/Unknown		26 Hate Bias <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		27 Bias Code <b>88</b>		28 Domestic Violence	
29 Point of Entry <input type="checkbox"/> Door <input type="checkbox"/> Roof <input type="checkbox"/> Window <input type="checkbox"/> Other		30 Method of Entry <input type="checkbox"/> Force <input type="checkbox"/> No Force		31 Local Use		32 Lighting <input checked="" type="checkbox"/> Natural <input type="checkbox"/> Moon <input type="checkbox"/> Artificial Exterior <input type="checkbox"/> Artificial Interior <input type="checkbox"/> Unknown		33 Weather <input checked="" type="checkbox"/> Clear <input type="checkbox"/> Cloudy <input type="checkbox"/> Rain <input type="checkbox"/> Fog <input type="checkbox"/> Snow <input type="checkbox"/> Hail <input type="checkbox"/> Unknown		34 Location Type (Circle) <b>20 - Residence/Home</b>									
35 Occurred from MM/DD/YY <b>05/22/2022</b>		36 Time of Event <b>18:21</b>		37 Day of Week <input checked="" type="checkbox"/> S <input type="checkbox"/> M <input type="checkbox"/> T <input type="checkbox"/> W <input type="checkbox"/> T <input type="checkbox"/> F <input type="checkbox"/> S		38 Occurred to MM/DD/YY <b>05/22/2022</b>		39 Time of Event <b>18:29</b>		40 Day of Week <input checked="" type="checkbox"/> S <input type="checkbox"/> M <input type="checkbox"/> T <input type="checkbox"/> W <input type="checkbox"/> T <input type="checkbox"/> F <input type="checkbox"/> S		41 # Premises Entered (Burglary)							
42 Type Criminal Activity										43 Victim Type I Individual I Financial (Bank) R Religious Org B Business G Government S Society L LEOKA O Other U Unknown									
44 Loss Code		45 Property Code		46 Qty		47 Property Description Include Make, Model, Size Type, Serial #, Color, Drug Type, Drug Qty, Etc.				48 Dollar Value Stolen Damaged		49 Recovered Date Value							
50 Stolen Vehicle Only		51 Area Stolen <input type="checkbox"/> Business <input type="checkbox"/> Rural		52 Residence <input type="checkbox"/> Residence <input type="checkbox"/> Rural		53 Ownership verified by: <input type="checkbox"/> Tag Receipt <input type="checkbox"/> Title <input type="checkbox"/> Bill of Sale <input type="checkbox"/> Other		54 Veh. Categories <input type="checkbox"/> Recovered <input type="checkbox"/> Victim's Vehicle <input type="checkbox"/> Abandoned <input type="checkbox"/> Stolen <input type="checkbox"/> Suspect's Vehicle <input type="checkbox"/> Unauthorized Use											
53 Vehicle Year		54 Vehicle Make		55 Vehicle Model		56 Number Veh Stolen		57 Vehicle Description											
58 Vehicle Style		59 Vehicle Color Top Bottom		60 License		61 LST		62 LIY		63 Tag Color									
64 Vehicle VIN Number										65 Warrant Signed <input type="checkbox"/> Yes <input type="checkbox"/> No									
66 Stolen in your jurisdiction? <input type="checkbox"/> Yes <input type="checkbox"/> No Where?										67 Recovered in your jurisdiction? <input type="checkbox"/> Yes <input type="checkbox"/> No Where?									
68 Case #		69 SFX		70 Case #		71 SFX		72 Case #		73 SFX									
74 Case Status <input checked="" type="checkbox"/> Pending <input type="checkbox"/> Inactive <input type="checkbox"/> Closed		75 Multiple Cases Closed Listed Above Multiple Cases Closed Listed On Supplement		76 Case Disposition 1 Cleared By Arrest (Juvenile) 2 Cleared By Arrest (Adult) 3 Unfounded 4 Exceptional Clearance 5 Administratively Cleared		77 Exceptional Clearance (Circle One) A Death of Offender B Prosecution Declined C In Custody of Other Jurisdiction D Victim Refused to Cooperate E Juvenile (No Custody) N Not Applicable (not cleared exceptionally)		78 Reporting Officer <b>Officer C. Smith</b>		313 Officer ID Number									
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**THIS SIDE OF FORM IS CONFIDENTIAL UNLESS RELEASED AT THE  
DISCRETION OF THE CHIEF LAW ENFORCEMENT OFFICER**

<b>Incident/Offense Report - Continued</b>		83 Date of Report (MM/DD/YYYY) 05/22/2022		84 Time of Report 18:59		85 Agency Case Number 220500122		86 Suffix 1		87 Offender <input checked="" type="checkbox"/> Offender <input type="checkbox"/> Suspect <input type="checkbox"/> Missing Person <input type="checkbox"/> Check if Multiple	
88 Reported By (Last, First, Middle Name) SMITH, OFFICER		<input type="checkbox"/> Victim Or		89 Suffix		90 <input type="checkbox"/> Resident <input type="checkbox"/> Non-Resident		91 Home Phone (256) 378-7860		92 Work Phone	
94 Victim # 1		95 Victim (Last, First, Middle Name) City of Childersburg		96 Suffix		97 Address (Street, City, State, Zip)		98 Home Phone		99 Work Phone	
101 Employer/School		102 Occupation		103 Address (Street, City, State, Zip)				104 Work Phone		105 Other Phone	
106 Sex <input type="checkbox"/> M <input type="checkbox"/> F		107 Race <input type="checkbox"/> W <input type="checkbox"/> B <input type="checkbox"/> A <input type="checkbox"/> I		108 Language <input type="checkbox"/> English <input type="checkbox"/> Spanish <input type="checkbox"/> Other		109 HGT		110 WGT		111 Date of Birth	
112 Age		113 Victim SSN		114 Complainant SSN							
115 Multiple Victims <input type="checkbox"/> LE Officer		116 Ethnicity <input type="checkbox"/> Hispanic <input type="checkbox"/> Other		117 Injury <input type="checkbox"/> Yes <input type="checkbox"/> No		118 Offender known to victim? <input type="checkbox"/> Yes <input type="checkbox"/> No		119 Victim was? (Explain Relationship) Relationship Unknown		120 Relationship Code RU	
121 Weapons Used <input type="checkbox"/> Firearm <input type="checkbox"/> Knife		122 Description of Weapons/Firearms/Tools Used in Offense Describe		<input type="checkbox"/> Handgun <input type="checkbox"/> Rifle <input type="checkbox"/> Shotgun <input type="checkbox"/> Unknown							
123 Place of Occurrence 505 5th Ct. SW, Childersburg, AL 35044		(Enter exact street address here.)		124 Type of Injury N None I Internal Injury M Minor Injury T Loss of Teeth B Broken Bones L Severe Laceration O Other Major Injury U Unconscious		125 Sector					
126 Circumstances: Homicide & Assault		127 Location: Rape		128 Assault <input type="checkbox"/> N/A <input type="checkbox"/> Simple <input type="checkbox"/> Aggravated		129 Treatment for Assault? <input type="checkbox"/> Yes <input type="checkbox"/> No		130 Verify for Rape Exam? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown		131 Treatment for Rape? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown	
132 OR # 1		133 Name (Last, First, Middle) JENNINGS, MICHAEL JEROME		134 SFX		135 Alias		136 Social Security #		137 Race <input type="checkbox"/> W <input type="checkbox"/> B <input type="checkbox"/> A <input type="checkbox"/> I	
141 Address (Street, City, State, Zip)		142 HGT 5'07"		143 WGT 172		144 Ethnicity <input type="checkbox"/> Hispanic <input checked="" type="checkbox"/> Other Non-Hispanic		145 Language <input type="checkbox"/> English <input type="checkbox"/> Spanish <input type="checkbox"/> Other		146 Probable Destination	
147 Eye BRO		148 Hair BLK		149 Complexion DBR		150 Armed <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		151 Arrested <input type="checkbox"/> Yes <input type="checkbox"/> No		152 Dual Arrest (Domestic Violence) <input type="checkbox"/> Yes <input type="checkbox"/> No	
153 Race <input type="checkbox"/> W <input type="checkbox"/> B <input type="checkbox"/> A <input type="checkbox"/> I		154 Sex <input type="checkbox"/> M <input type="checkbox"/> F		155 Date of Birth		156 Age		157 Ethnicity <input type="checkbox"/> Hispanic <input type="checkbox"/> Other		158 Language <input type="checkbox"/> English <input type="checkbox"/> Spanish <input type="checkbox"/> Other	
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177 Name (Last, First, Middle)		178 Sex		179 Date of Birth		180 Address		181 Home		182 Work	
183 Name (Last, First, Middle)		184 Sex		185 Date of Birth		186 Address		187 Home		188 Work	
189 Name (Last, First, Middle)		190 Sex		191 Date of Birth		192 Address		193 Home		194 Work	
200 Witness #1 SSN		201 Witness #2 SSN		202 Witness #3 SSN							
203 ON 05/22/2022 I OFFICER SMITH, WAS DISPATCHED TO 401 5TH CT SW IN REFERENCE TO A SUSPICIOUS VEHICLE IN THE YARD THAT WASN'T SUPPOSE TO BE THERE. UPON MY ARRIVAL I MADE CONTACT WITH THE GOLD CHEVY TAHOE AND A B/M LATER IDENTIFIED AS MICHAEL JENNINGS. I ASKED MICHAEL WHAT HE WAS DOING HERE. MICHAEL STATED THAT HE WAS WATERING THE FLOWERS FOR THE NEIGHBOR WHILE THEY WERE OUT OF TOWN. I ASKED MICHAEL DID HE LIVE HER MICHAEL SAID "NO" I ASKED HIM WAS THE TAHOE HIS, MICHAEL SAID "NO IT WAS THE NEIGHBORS". I ASKED MICHAEL FOR HIS DRIVER LICENSE. MICHAEL STATED TO ME HE DIDN'T HAVE TO GIVE ME HIS DRIVER LICENSE BECAUSE HE HASN'T COMMITTED ANY CRIME. I STATED TO MICHAEL THAT I WAS THERE BECAUSE I WAS CALLED FOR A SUSPICIOUS VEHICLE AND A SUSPICIOUS PERSON IN THE YARD THAT'S NOT SUPPOSE TO BE THERE. MICHAEL STARTED TO GET BELLIGERENT WITH ME AND BEGIN TO											
204 Continued on Supplement		205 Assisting Agency ORI		206 Assisting Agency Case Number		207 SFX		208 Warrant Signed		209 Add. Cases Closed	
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No								<input type="checkbox"/> Yes <input type="checkbox"/> No		<input type="checkbox"/> Y <input type="checkbox"/> N	
I hereby affirm that I have read this report and that all information given by me is correct to the best of my knowledge. I will assume full responsibility for notifying the agency if any stolen property or missing person herein reported is returned.											
Signature Chris GRL 313										211 Local Use	
										212 State Use	

App005

ADDITIONAL INCIDENT/OFFENSE INFORMATION		OFFICER'S WORK PRODUCT MAY NOT BE PUBLIC INFORMATION			
		3 DATE AND TIME THIS REPORT M D Y 05/22/2022 18:59		<input type="checkbox"/> AM <input type="checkbox"/> PM	<input checked="" type="checkbox"/> MIL 4 AGENCY CASE # 220500122

Assisting Officer(s)

80 Assisting Officer
309 - Sergeant J. Brooks

OFFICER'S WORK PRODUCT MAY NOT BE PUBLIC INFORMATION

**ADDITIONAL INCIDENT/OFFENSE  
NARRATIVE CONTINUED**

3 DATE AND TIME THIS REPORT

M D Y  
05/22/2022 18:59

1 AM

2 PM

4 MIL

4 CASE #

220500122

5 SPX

WALK AWAY FROM ME. OFFICER GABLE ARRIVED ON SCENE AND TRIED TO TALK TO MICHAEL BUT MICHAEL KEPT SAYING THAT WE DIDN'T HAVE A REASON TO BE TALKING TO HIM AND THAT HE DIDN'T HAVE TO IDENTITY HIMSELF TO US. OFFICER GABLE AND MYSELF DETAINED THE MICHAEL. SGT. BROOKS ARRIVED ON SCENE AND TRIED TO TELL MICHAEL THE REASON WHY WE WAS THERE, BUT MICHAEL SAID THAT WE WAS RACIAL PROFILING HIM AND HE WAS GOING TO GET A LAWSUIT ON CHILDERSBURG POLICE DEPARTMENT. SGT. BROOKS TRIED AGAIN TALKING TO MICHAEL BUT MICHAEL STATED THAT SGT BROOKS NEEDED TO QUIT TALKING TO HIM LIKE A LITTLE BOY. I PLACED MICHAEL UNDER ARREST FOR OBSTRUCTING GOVERNMENTAL OPERATIONS AND MICHAEL WAS PLACED IN THE BACK OF OFFICER GABLE CAR. AFTER TALKING WITH THE CALLER OF THE CALL AMANDA WHO WOULD NOT PROVIDE HER LAST NAME SHE STATED THAT SHE DIDN'T KNOW THAT IT WAS MICHAEL AT FIRST AND STATED THAT MICHAEL AND THE RESIDENCE AT 505 5TH CT SW WAS GOOD FRIENDS AND THAT SHE MADE A MISTAKE. MICHAEL WAS TRANSPORTED TO CHILDERSBURG POLICE DEPARTMENT BY OFFICER GABLE FOR BOOKING AND I TRANSPORTED MICHAEL TO TALLADEGA COUNTY JAIL WITHOUT ANY INCIDENT.

TYPE OR PRINT IN BLACK INK ONLY

App007



State of Alabama  
Unified Judicial System  
Report #: 220500122  
Form CR-6 Rev. 8/98

# COMPLAINT

(Felonies, Misdemeanors, or Violations --  
District Court or Municipal Court)

Warrant Number  
**22-000000361**  
Case Number

IN THE MUNICIPAL COURT OF CHILDERSBURG, ALABAMA  
(Circuit, District, or Municipal) (Name of Municipality or County)

☐ STATE OF ALABAMA ☒ MUNICIPALITY OF CHILDERSBURG

v. MICHAEL JEROME JENNINGS, Defendant

Before me, the undersigned authority, personally appeared this day the undersigned complainant who, upon first being duly sworn, states on oath that he/she has probable cause for believing and does believe that **MICHAEL JEROME JENNINGS**, Defendant, whose name is otherwise unknown to the complainant, did on or about **May 22 2022**, commit the offense of **OBSTRUCTING GOVERNMENT OPERATIONS** within the City/Town of **CHILDERSBURG**, or in the police jurisdiction thereof in that he/she did:

**MICHAEL JENNINGS**  
DID TO WIT; FAILED TO PROVIDE OFFICERS WITH IDENTIFICATION WHEN REPEATEDLY ASKED,  
INTENTIONALLY HINDERING OFFICERS INVESTIGATION OF 911 CALL

in violation of Ordinance Number 943 which embraces Section 13A-10-2  
Code of Alabama 1975, previously adopted, effective and in force at the time the offense was committed.

## WITNESSES

ARRESTING OFFICER SMITH, CHRISTOPHER

APPEARANCE BOND \$500.00

Sworn to and Subscribed before me this the 24 day of May, 2022.

  
Judge/Magistrate/Warrant Clerk

  
Complainant

App008

MC22-0000242

## CASE ACTION SUMMARY

Court Date: Wed Jul 13, 2022 8:30 AM

OPEN

Printed: Tue May 24, 2022 5:07 PM

Page #1

JENNINGS, MICHAEL JEROME

DEFENDANT

Sex: M

DOB: [REDACTED]

Race/Ethnicity: BLACK

Employer:

CHARGE

OBSTRUCTING GOVERNMENT OPERATIONS

Arrest Date: 5/22/2022

Police Number: 220500122

Statute: 13A-10-2 Local: 943 Code: OGOP Writ: 22-000000361

Cash Bond: —

PARTIES

ARRESTING OFFICER  
COMPLAINANTSMITH, CHRISTOPHER  
SMITH, CHRISTOPHER\$35 Hermans 5-22-22  
\$1000 BF

EVENT HISTORY

BENCH NOTES

On \_\_\_\_\_ the defendant appears in open court in person and pleads Guilty/Not Guilty. After hearing the evidence it is the judgment of the court that defendant is Guilty/Not Guilty and is fined \_\_\_\_\_ together with \_\_\_\_\_ cost and \_\_\_\_\_ restitution to the victim and sentenced to \_\_\_\_\_ days in \_\_\_\_\_ jail. ( ) SUSPENDED. Defendant to pay \_\_\_\_\_ per day for housing and maintenance plus actual medical expenses incurred during the period of incarceration. Defendant is given \_\_\_\_\_ days credit for time already served in jail on this charge. Payment Plan Minimum: \_\_\_\_\_ Payment Plan Period: \_\_\_\_\_ Pay By Date: \_\_\_\_\_ Bail Bond Filing Fee: ( ) \$35 Bail Bond Fee: ( ) \$100 ( ) \$25 Add Requirements:

6/1/22 - Upon motion of prosecutor, case is hereby dismissed with prejudice.

COSTS \$257 FINE \$100

Judge: [Signature]


PAYMENTS

Receipt #	Check #	Date Posted	Method	Credited	Voided

App009

## Officer Smith Statement

ON 05/22/2022 I OFFICER SMITH, WAS DISPATCHED TO 401 5TH CT SW IN REFERENCE TO A SUSPICIOUS VEHICLE IN THE YARD THAT WASN'T SUPPOSED TO BE THERE. UPON MY ARRIVAL I MADE CONTACT WITH THE GOLD CHEVY TAHOE AND A B/M LATER IDENTIFIED AS MICHAEL JENNINGS. I ASKED MICHAEL WHAT HE WAS DOING ON THE PROPERTY. MICHAEL STATED THAT HE WAS ONLY THERE TO WATER THE FLOWERS FOR THE NEIGHBOR WHILE THEY WERE OUT OF TOWN. I ASKED MICHAEL DID HE LIVE AT THE RESIDENCE, MICHAEL SAID "NO". I ASKED MICHAEL WAS THE GOLD TAHOE HIS, MICHAEL SAID "NO IT WAS THE NEIGHBORS". I ASKED MICHAEL FOR HIS DRIVER LICENSE SO I COULD IDENTIFY HIM. MICHAEL STATED TO ME HE DIDN'T HAVE TO GIVE ME HIS DRIVER LICENSE BECAUSE HE HASN'T COMMITTED ANY CRIME AND THAT HE WAS JUST THERE WATERING THE FLOWERS. I STATED TO MICHAEL THAT I WAS THERE BECAUSE I WAS CALLED FOR A SUSPICIOUS VEHICLE AND SUSPICIOUS PERSON'S IN THE YARD THAT WAS NOT SUPPOSE TO BE THERE. MICHAEL STARTED TO GET BELLIGERENT WITH ME AND BEGIN TO WALK AWAY FROM ME. I ASKED MICHAEL SEVERAL TIMES TO STOP AND JUST TALK TO ME, BUT MICHAEL KEPT WALKING TOWARDS THE FRONT OF THE RESIDENCE. OFFICER GABLE ARRIVED ON SCENE AND TRIED TO TALK TO MICHAEL, BUT MICHAEL KEPT SAYING THAT WE DIDN'T HAVE A REASON TO BE TALKING TO HIM AND THAT HE DID NOT HAVE TO IDENTIFY HIMSELF TO US. OFFICER GABLE AND MYSELF DETAINED MICHAEL AND SAT HIM DOWN ON THE FRONT PORCH. SGT. BROOKS ARRIVED ON SCENE AND TRIED TO TELL MICHAEL THE REASON WHY WE WAS THERE, BUT MICHAEL SAID THAT WE WAS RACIALLY PROFILING HIM AND HE WAS GOING TO GET A LAWSUIT ON CHILDERSBURG POLICE DEPARTMENT. SGT. BROOKS TRIED AGAIN TALKING TO MICHAEL, BUT MICHAEL STATED THAT SGT BROOKS NEEDED TO QUIT TALKING TO HIM LIKE A LITTLE BOY. I PLACED MICHAEL UNDER ARREST FOR OBSTRUCTING GOVERNMENTAL OPERATIONS AND MICHAEL WAS PLACED IN THE BACK OF OFFICER GABLE CAR. AFTER TALKING WITH THE CALLER OF THE CALL, AMANDA WHO WOULD NOT PROVIDE HER LAST NAME. I ASK AMANDA IF SHE KNEW A PASTOR JENNINGS AND SHE STATED "YES IS THAT WHO IS HERE, AMANADA STATED THAT SHE DID NOT KNOW THAT IT WAS PASTOR JENNINGS AT FIRST AND STATED THAT PASTOR JENNINGS AND THE RESIDENCE AT 505 5TH CT SW WERE GOOD FRIENDS AND THAT SHE MADE A MISTAKE. MICHAEL WAS TRANSPORTED TO CHILDERSBURG POLICE DEPARTMENT BY OFFICER GABLE FOR BOOKING AND I TRANSPORTED MICHAEL TO TALLADEGA COUNTY JAIL WITHOUT ANY INCIDENT.

X  313  
 Officer Smith 313  
 Date: 05/23/2022

CASE # 220500122

On 5/22/2022 at 1820 hours, Childersburg Officers received a call from 401 5<sup>th</sup> CT SW in reference to neighbors being out of town and a vehicle there that shouldn't be. Officer Smith was given the call and arrived on the scene followed by Officer Gable. I was arriving on the scene and heard Officers detain one male that wouldn't provide any information. I called out on the scene and approached, observing one b/m sitting on the porch steps, verbally stating loudly "I know all about the Childersburg Police, this is racial". Officers were telling the unidentified male that we received a call of a suspicious person at the residence and were simply investigating the call. The subject just replied "I don't have to give any information; this is a lawsuit". At that time, I stated to the male that everything was being audio and video recorded and we were simply trying to identify him because of the call that we received. As I tried to explain this to him, the subject interrupted loudly, stating "stop talking to me like I'm a boy". With the male not cooperating and no one at the residence, the male was placed under arrest for obstructing governmental operations. The male continued to yell that we were racially profiling him and he was being arrested for being black.

The male was placed in the back of the nearest patrol unit and Officers spoke with the caller, Amanda (256-267-6441) and she stated that she didn't know who it was at the residence and called 911. Upon seeing who the male was, Amanda stated that she knew him and didn't realize it was him on the property. When asked for Amanda's last name, for the report, she refused to give it. The male was identified as Michael Jerome Jennings.

Jennings's family came up on the scene and Officers were explaining the situation, when Jennings continued to yell "I was arrested for being black". Jennings was transported to the Childersburg police Department for booking, then to the Talladega County Jail.

Sgt. Jeremy Brooks



**CHILDERSBURG POLICE DEPARTMENT****STATEMENT OF OFFICER GABLE 314****CASE#220500122**

On 05/22/2022 Childersburg Police Department received a call at a residence on 5<sup>th</sup> Court, dispatched advised that the caller, Amanda, stated that her neighbors were out of town and no one should be at the residence, but she saw a gold SUV in the driveway that should not be there. Officer Smith arrived on scene first and made contact with a black male in the backyard watering plants. I arrived on scene shortly after and observed the male arguing with Officer Smith, stating that he did not have to identify himself and that Officers had only tried to talk to him due to him being a black man.

Officer Smith and I attempted several times to tell the male that we had a call to the residence that no one should be there and only needed his identification to be sure he was allowed on scene. The male walked away from Officers and stated he was going to water the front yard plants and leave, and that he would not identify himself to us. I attempted again to tell the male why we were there and needed his identification. The male continued to talk over Officers speaking to him and would not listen to us. I detained the male and had him sit on the porch. Sgt. Brooks arrived on scene and attempted to talk to the male, but he cut Sgt. Brooks off and stated "Don't talk to me like I'm a child boy".

Sgt. Brooks and Officer Smith then placed the male under arrest for Obstruction of a Governmental Operation. The male then told Officer Smith his name and date of birth, identifying himself as Michael Jennings.

**OFFICER J. GABLE 314**Handwritten signature of Officer J. Gable 314, consisting of a stylized cursive name followed by the number 314.

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
EASTERN DIVISION**

**MICHAEL JEROME JENNINGS,**

**Plaintiff,**

**V.**

CHRISTOPHER SMITH, *et al.*,

## Defendants.

**CASE NO.: 1:22-cv-01165-RDP**

**PLAINTIFF MICHAEL JEROME JENNINGS'**  
**BRIEF IN OPPOSITION TO DEFENDANT OFFICERS' MOTION FOR**  
**SUMMARY JUDGMENT**

NOW COMES Plaintiff Michael Jerome Jennings, and submit this brief in opposition to Defendants Officers' motion for summary judgment.

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## I. INTRODUCTION<sup>1</sup>

On May 22, 2022, at approximately 6:29 p.m., Plaintiff Michael Jerome Jennings (hereinafter “Mr. Jennings of Plaintiff”) was watering his neighbors’ flowers when he was approached by Officer Christopher Smith (hereinafter “Officer Smith of Defendant Smith”) of the Childersburg Police Department in Childersburg, Alabama. Despite the fact the Plaintiff was holding a water hose and watering flowers at the time Defendant Smith approached him, Defendant Smith asked the Plaintiff what he was doing at the neighbor’s house; the Plaintiff responded by telling Defendant Smith he was watering flowers. Without any reasonable suspicion that the Plaintiff had committed a crime, Defendant Smith demanded for the Plaintiff to show him his identification/driver’s license. Notably, although the Plaintiff was under no obligation under Alabama law to do so, Plaintiff disclosed his name to Defendant Smith as “Pastor Jennings” who lives across the street; and, further stated he was supposed to be there watering his neighbors’ flowers while they are away. The Plaintiff was ultimately arrested and jailed by the individual Defendant without

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<sup>1</sup> Plaintiff also take these facts as true for the limited purpose of summary judgment. Most of these facts are based on objective evidence in the record, such as video and audio recordings, and Plaintiff respectfully state that any such objective evidence should be taken as true and prevail over any attempted description of the facts that is “blatantly contradicted” by the objective evidence. See Scott v. Harris, 550 U.S. 372, 380, 127 S. Ct. 1769, 167 L. Ed. 2d 686 (2007) (noting that “a court should not adopt” a party’s description of the facts at summary judgment if it “is blatantly contracted” by objective evidence in the record, such as a video recording). However, the Plaintiff otherwise respectfully reserve the right to contest any and all facts at trial or at any other proceeding.

any arguable probable cause to do so for failing to provide his identification card and exercising his First Amendment right. As noted by the Defendants, the entire incident was captured on body worn cameras worn by the Defendants on the date of the incident leaving absolutely no factual dispute as to what happened, summary judgment is proper against the individual Defendants for violating the Plaintiff's First and Fourth Amendment Rights and subjecting the Plaintiff to False Arrest under Alabama Law.

## **II. PROCEDURAL HISTORY**

In the spirit of judicial economy, the Plaintiff adopts the Defendants' rendition of the procedural history of this action. The Plaintiff now files this brief in opposition to Defendant Officers' Motion for Summary Judgment and show that summary judgment is warranted against the Defendants Officers at this time.

## **III. PLAINTIFF'S RESPONSE TO DEFENDANT OFFICERS' STATEMENT OF UNDISPUTED FACTS**

9. When Defendant Smith first arrived on the scene (before his body worn camera activated), he saw an African American male (later identified as Jennings) standing in the yard, with nothing in his hands. (Doc. 47-3, at 37:11-16.).

**Disputed.** When Smith first arrived on the scene (before his body worn camera activated), the Plaintiff had a water hose in his hand watering his neighbor's flowers. (Doc. 50-7, Declaration of Michael Jennings, at ¶¶ 5-8.); (Doc. 50-8, Video

surveillance mounted on Roy's home that depicts Plaintiff watering flowers on May 22, 2022.).

10. When Smith's body worn camera activates, it depicts him walking around the corner of 401 6th Court, where a gold SUV is visible in the driveway and the African American male is standing at the corner of the house, now with a water hose in hand. (Doc. 47-4, at 18:23:51 to 18:24:09.).

**Disputed.** When Smith first arrived on the scene (before his body worn camera activated), the Plaintiff had a water hose in his hand watering his neighbor's flowers. (Doc. 50-7, Declaration of Michael Jennings, at ¶¶ 5-8.); (Doc. 50-8, Video surveillance mounted on Roy's home that depicts Plaintiff watering flowers on May 22, 2022.).

89. Gable stated that, based on the 911 call and the caller's statements that the neighbors were out of town, and no one was supposed to be there, he had a suspicion that the potential crimes of trespass or burglary were being committed. (Doc. 47-5, at 17:10-18, 19:17-22.)

**Disputed.** Amanda, the 911 caller, specifically told the 911 operator that she was *not sure* if someone was supposed to be at her neighbor's house and she is not saying whoever is over there should not be there. She just wanted someone to come and check to make sure whoever is there *supposed* to be there.

92. Smith and Gable consistently testified that Jennings was arrested because he did not provide his name, which was hindering their investigation of the “suspicious persons” 911 call. (See, e.g., Doc. 47-3, at 34:3-6; Doc. 47-5, at 12:6-12.)

**Disputed.** Defendant Smith only demanded for the Plaintiff to produce his identification/driver license. Notably, at the time Defendant Smith asked for the Plaintiff’s identification, Defendant Smith made a hand gesture clearly indicating he was asking for the Plaintiff’s ID card or driver’s license to identify the Plaintiff. (Doc. 47-4, at 18:24:44 to 18:24:48.). Defendant Smith acknowledges in his written report that he was asking for the Plaintiff’s driver’s license. (Doc. 52-2, Pg. 2.). Defendants Smith and Gable both told Amanda that Defendant Smith wanted the Plaintiff’s identification and not the Plaintiff’s name. (Doc. 47-6, at 18:30:46 to 18:31:21.).

93. Smith said that he first asked Jennings for his driver’s license, then his name, but Jennings only told him “his title, Pastor Jennings,” and. Smith said, “Pastor is [a] title. Jennings would be a first name or could be a last name.” (Doc. 47-3, at 15:18-16:3.)

**Disputed.** Defendant Smith never asked for the Plaintiff’s name. Defendant Smith only demanded for the Plaintiff to produce his identification/driver license. Notably, at the time Defendant Smith asked for the Plaintiff’s identification,

Defendant Smith made a hand gesture clearly indicating he was asking for the Plaintiff's ID card or driver's license to identify the Plaintiff. (Doc. 47-4, at 18:24:44 to 18:24:48.). Defendant Smith acknowledges in his written report that he was asking for the Plaintiff's driver's license. (Doc. 52-2, Pg. 2.). Defendants Smith and Gable both told Amanda that Defendant Smith wanted the Plaintiff's identification and not the Plaintiff's name. (Doc. 47-4, at 18:30:25 to 18:30:52.); (Doc. 47-6, at 18:30:46 to 18:31:21.). In fact, the Defendant Officers discussed with Amanda that the Plaintiff was arrested for saying they were racially profiling him, refusing to give his identification card and to tell them why he was on his neighbor's property. (Doc. 47-6, at 18:30:46 to 18:31:21.) ;(Doc. 47-8, at 18:30:53 to 18:31:21.) Further, the Plaintiff voluntarily disclosed to Defendant Smith that his name was "*Pastor Jennings, he lives across the street and that he was looking out for their house while they gone. I'm watering their flowers.*" (Doc. 47-4, at 18:24:34 to 18:24:44.)

#### IV. ADDITIONAL UNDISPUTED FACTS

1. Amanda, the 911 caller, specifically told the 911 operator that she was not sure if someone was supposed to be at her neighbor's house and she is not saying whoever is over there should not be there. She just wanted for someone to come and check to make sure whoever is there supposed to be there. (Doc. 50-1 at 1:16-21; 2:17-21; 18:24:34 to 18:24:44.)

2. When Defendant Smith arrived on scene, he didn't see anyone else present in the yard except the Plaintiff. (Doc. 47-3, at 37:5-7.)

3. Additionally, when Defendant Smith first observed the Plaintiff, the Plaintiff was not attempting to break into his neighbor's house. (Id., at 37:21-25.)

4. During the interaction between the Plaintiff and Defendant Smith, at no time does the Plaintiff seem startled by Defendant Smith's presence at the scene. (Doc. 47-4, at 18:24:09 to 18:24:48.) At no time does the Plaintiff seem nervous by Defendant Smith's presence at the scene. (Id.). At no time does the Plaintiff tries to avoid eye contact with Defendant Smith. At no time does the Plaintiff tries to flee. At no time did Defendant Smith observe anyone else on the property besides the Plaintiff. (Id.).

5. Defendant Smith only demanded for the Plaintiff to produce his identification/driver license. (Doc. 47-4, at 18:24:44 to 18:24:48.). Notably, at the time Defendant Smith asked for the Plaintiff's identification, Defendant Smith made a hand gesture clearly indicating he was asking for the Plaintiff's ID card or driver's license to identify the Plaintiff. (Id.).

6. Defendant Smith acknowledges in his written incident report that he was asking for the Plaintiff's driver's license. (Doc. 52-2, Pg. 2.).

7. The Plaintiff told Defendant Smith he is not going to give him his identification card/ driver's license. (Doc. 47-4, at 18:24:48 to 18:24:49.)

8. When Officer Justin Gable (hereinafter “Officer Gable of Defendant Gable”) arrived on scene, the Plaintiff was still watering his neighbor’s flowers. (Doc. 47-4, at 18:25:05 to 18:25:17.).

9. During the interaction between the Plaintiff, Defendants Smith and Gable, at no time did the Plaintiff seem startled by Defendants Smith and Gable’s presence at the scene. (Doc. 47-4, at 18:24:09 to 18:25:17. At no time did the Plaintiff seem nervous by Defendants Smith and Gable’s presence at the scene. (Id.).

At no time does the Plaintiff tries to avoid eye contact with Defendants Smith and Gable. (Id.). At no time does the Plaintiff tries to flee. During the interaction with the Plaintiff, at no time did Defendants Smith and Gable observe anyone else on the property besides the Plaintiff. (Id.).

10. Plaintiff again disclosed to Defendant Smith and now to Defendant Gable, why he was at his neighbor’s house and points to his house across the street. (Id.)

11. Plaintiff then tells Defendants Gable and Smith he was not going to show them his identification. (Doc. 47-4, at 18:25:17 to 18:25:40.

12. According to the Plaintiff’s arrests warrant, he was arrested for failing to provide officers with identification when repeatedly asked, intentionally hindering

officers' investigation of 911 call. (Doc. 52-2, Pg. 8.). Plaintiff was charged with Ala. Code § 13A-10-2- Obstructing governmental operations. (Id.).

13. One June 1, 2022, the Childersburg Municipal Court dismissed the Plaintiff charge of obstructing governmental operations with prejudice. Doc. 52-2, Pg. 10.).

14. Both Defendants Brooks and Gable acknowledged in their deposition that *no Evidence of any break-in or burglary existed.* (Doc. 47-7 at 39:19-24.); (Doc. 47-5 at 22:4-6.).

15. All Defendants officers acknowledged the Plaintiff was on private property at the time the engaged him. (Doc. 47-7 at 36:16-21.); (Doc. 47-5 at 13:24-14:3.); (Doc. 47-3 at 16:11-16.).

16. All Defendants officers were employed by the City of Childersburg Police Department at all times relevant to this action. (Doc. 47-6, at 18:30:46 to 18:31:21.) ;(Doc. 47-8, at 18:30:53 to 18:31:21.)

## **V. ARGUMENT AND CITATION TO AUTHORITY**

Applying the statutory and judicial standards to the facts of this case, this Honorable Court should lead to the conclusion that no genuine issue exists to be tried as it relates to Defendants Smith, Gable and Brooks' liability on Plaintiff's Fourteenth Amendment claim and Plaintiff's State Law False Imprisonment claim.



**A. Motion for Summary Judgment Standard.**

A factual dispute is genuine if the evidence would allow a reasonable jury to find for the non-moving party. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986). A fact is “material” if it is “a legal element of the claim under the applicable substantive law which might affect the outcome of the case.” Allen v. Tyson Foods, Inc., 121 F.3d 642, 646 (11th Cir. 1997) (citing Anderson, 477 U.S. at 248)). The moving party bears the initial burden of showing the Court, by reference to materials in the record, that there is no genuine dispute as to any material fact that should be decided at trial. Hickson Corp. v. N. Crossarm Co., 357 F.3d 1256, 1260 (11th Cir. 2004) (citing Celotex Corp. v. Catrett, 477 U.S. 317, 323 (1986)). The moving party’s burden is discharged merely by “‘showing’—that is, pointing out to the district court—that there is an absence of evidence to support [an essential element of] the non-moving party’s case.” Celotex Corp., 477 U.S. at 325. In determining whether the moving party has met this burden, the district court must view the evidence and all factual inferences in the light most favorable to the party opposing the motion. Johnson v. Clifton, 74 F.3d 1087, 1090 (11th Cir. 1996) (citing Augusta Iron and Steel Works, Inc. v. Emp’rs Ins. of Wausau, 835 F.2d 855, 856 (11th Cir. 1988)). All reasonable doubts, however, are resolved in favor of the non-movant. Fitzpatrick v. City of Atlanta, 2 F.3d 1112, 1115 (11th Cir. 1993).

**B. Defendants are NOT entitled to Summary Judgment on his Section 1983 Claims against Defendant Officers.**

1. No arguable reasonable suspicion for an investigatory detention to justify the demand for an ID card or for Plaintiff to Identify himself.

“[A]n officer may, consistent with the Fourth Amendment, conduct a brief, investigatory stop when the officer has a reasonable, articulable suspicion that criminal activity is afoot.” Illinois v. Wardlow, 528 U.S. 119, 123 (2000) (citing Terry v. Ohio, 392 U.S. 1, 30 (1968)). “While ‘reasonable suspicion’ is a less demanding standard than probable cause and requires a showing considerably less than preponderance of the evidence, the Fourth Amendment requires at least a minimal level of objective justification for making the stop.” *Id.* (citing United States v. Sokolow, 490 U.S. 1, 7 (1989)). Officers have great freedom to engage in consensual encounters with citizens. See Florida v. Bostick, 501 U.S. 429, 434 (1991) (stating that “a seizure does not occur simply because a police officer approaches an individual and asks a few questions”). But when an officer starts giving commands to a citizen that require compliance, the encounter becomes a seizure that must be supported by reasonable suspicion. See United States v. Heard, 725 Fed. Appx. 743, 751 (11th Cir. 2018) (“[The officer]’s orders to Heard to keep his hands at his side or to raise his hands were not requests but rather commands that clearly ‘convey[ed] a message that compliance . . . [was] required.’ Bostick, 501 U.S. at 435. Thus, we analyze whether the officers had reasonable suspicion at this

moment in time . . .”). In the absence of reasonable suspicion justifying the stop, a person approached by an officer “need not answer any question put to him; indeed, he may decline to listen to the questions at all and may go on his way.” Florida v. Royer, 460 U.S. 491, 497-98 (1983) (citing Terry, 392 U.S. at 32-33 (Harlan, J., concurring) and 34 (White, J., concurring)). An individual “may not be detained even momentarily without reasonable, objective grounds for doing so; and his refusal to listen or answer does not, without more, furnish those grounds.” *Id.* at 498 (citing United States v. Mendenhall, 446 U.S. 544, 556 (1980)). When considering whether officers had reasonable suspicion to conduct a Terry stop, a court cannot single out particular factors; rather, it “must examine the totality of the circumstances.” United States v. Lewis, 674 F.3d 1298, 1303 (11th Cir. 2012). In the case of a Terry stop, an officer is entitled to qualified immunity if he has “arguable” reasonable suspicion. Jackson v. Sauls, 206 F.3d 1156, 1166 (11th Cir. 2000). If there is no objective factual basis for the claim of reasonable suspicion, there is no qualified immunity. *Id.* Whether a stop is made with arguable reasonable suspicion is measured by a purely objective standard of what a reasonable officer in the defendant’s position would have perceived. Young v. Eslinger, 244 Fed. Appx. 278, 279-80 (11th Cir. 2007).

No reasonable jury can conclude that the Defendant officers had an arguable reasonable suspicion to believe the Plaintiff was committing a crime once they made

contact with him. The totality of the circumstances showed that no criminal activity was afoot. As stated above, on May 22, 2022, at approximately 6:20 p.m., Talladega E-911 received a 911 call regarding the location of 401 6th Court Southwest in Childersburg. The 911 caller identified herself as “Amanda”. Amanda stated that she wanted “somebody to come over here and check,” because her “neighbors went out of town this morning to Gatlinburg, and there’s a vehicle over there with people *I don’t think are supposed to be over there*.” Notably, Amanda was not sure if any criminality was afoot in her reporting to 911 because she was not sure if someone was supposed to be at her neighbor’s house or not. Further, Amanda added that the neighbors were an “elderly white couple” and that Amanda had seen “a younger black male over there;” she added that “*they*” were outside the vehicle and that she had heard “them” “talking a minute ago out like in their back door, and I can’t hear them talking anymore, so they *may* be in the house now. I don’t know.” Once again Amanda was not sure if any criminality was afoot in her reporting to 911. Essentially, her 911 call tantamounted to a welfare check of her neighbor’s property at best because she did not observe any criminality of any kind and more importantly, she didn’t report any criminality to 911. However, the Plaintiff do not dispute that Amanda’s 911 call gave law enforcement a reason to make contact with the property and ultimately with Plaintiff who was watering flowers at the time on the property.

Based on the totality of the circumstances no arguable suspicion of criminal activity existed. First, when Defendant Smith arrived on scene, he didn't see anyone else present on the property except the Plaintiff contrary to what Amanda reported to 911. At that time the veracity of Amanda's report to 911 was grossly undermined. Second, what did Defendant find on the property? Defendant Smith found a middle age black man watering flowers. This Court should note that Defendant Smith and the Plaintiff greeted one another. Although the Plaintiff was under no legal obligation to converse with Defendant Smith, when Defendant questioned why the Plaintiff was on the property, the Plaintiff told him he was watering his neighbor's flowers and was supposed to be there. The Plaintiff told Defendant Smith that he was Pastor Jennings and that he lived across the street. Further, the Plaintiff stated to Defendant Smith, "I'm looking out for they house while they gone. I'm watering their flowers." This Court should note that during the interaction between the Plaintiff and Defendant Smith, at no time does the Plaintiff seem startled by Defendant Smith's present. At no time does the Plaintiff seem nervous by Defendant Smith's present. At no time does the Plaintiff tries to avoid eye contact with Defendant Smith. At no time does the Plaintiff tries to flee. At no time did Defendant Smith observe anyone else on the property besides the Plaintiff. Simply stated, there was no objective arguable reasonable suspicion to justify the detention and arrest of the Plaintiff. Finally, the factual basis of the Plaintiff's action is grossly different

from the facts in Edger v. McCabe, 572 F. Supp. 3d 1143 (N.D. Ala. 2021). In Edger, Kendraus Turner, the church's on-duty security guard, called 9-1-1. He reported to the dispatcher that he'd seen two Hispanic males on church grounds while on foot patrol. Specifically, Turner reported that the men were "messaging with an employee's car that was left on the lot" and that they had removed one of the car's wheels. At approximately 8:36 p.m., Officer McCabe arrived at the church and made contact with Edger and Nuby (Edger's associate). When Officer McCabe arrived, Edger was laying on the ground on the passenger side of Mrs. Ghosh's car, jacking it up. Id. at 1147. Further, the District Court Judge in Edger, granted qualified immunity to the officers because one could validly argue that an officer just arriving on the scene could have reasonably believed that the men could have been doing something criminal. e.g., stealing tires. Essentially in Edger, Turner reported a theft in process. Unlike in Edger, Amanda, the 911 caller, did not report a crime or suspicion of a crime, at best she wanted a welfare check to be performed on her neighbor's home. She only told the 911 operator that she was *not sure* if someone was supposed to be at her neighbor's house and she is *not saying whoever is over there should not be there*. She just wanted someone to come and check to make sure whoever is there *supposed* to be there. Also unlike in Edger, when Defendant Smith first arrived on the scene (before his body worn camera activated), the Plaintiff had a water hose in his hand watering his neighbor's flowers. When Defendant Smith arrived on scene,

he didn't see anyone else present in the yard except the Plaintiff. Additionally, when Defendant Smith first observed the Plaintiff, the Plaintiff was not attempting to break into his neighbor's house. During the interaction between the Plaintiff and Defendant Smith, at no time does the Plaintiff seem startled by Defendant Smith's presence at the scene. At no time does the Plaintiff seem nervous by Defendant Smith's presence at the scene. At no time does the Plaintiff tries to avoid eye contact with Defendant Smith. At no time does the Plaintiff tries to flee. At no time did Defendant Smith observe anyone else on the property besides the Plaintiff. It is undisputed when Defendant Smith approached the Plaintiff, he observed the Plaintiff watering flowers (Doc. 47-4, at 18:24:14 to 18:24:19.) Defendant Smith then explains that "they are saying this vehicle is not supposed to be here and you're not supposed to be here," and the Plaintiff male asks, "Who's saying that?" (Doc. 47-4, at 18:24:31 to 18:24:34.) Defendant Smith says, "They called about it. I don't know who called." The Plaintiff then says, "I'm supposed to be here. I'm Pastor Jennings. I live across the street." The Plaintiff further states, "I'm looking out for they house while they gone. I'm watering they flowers." (Doc. 47-4, at 18:24:34 to 18:24:44.). Notably, the Edger case turned on the officer reasonable but mistakenly believed that Edger's failure to provide his driver's license violated Ala. Code § 15-5-30, after officer reasonably believed that the men could have been doing something criminal. e.g., stealing tires. Therefore, the district court determined that the officers had

arguable probable cause and qualified immunity attached to the officer's actions. In the case at bar, no arguable reasonable suspicion existed ab initio, nor did any arguable probable cause manifest throughout the encounter with the Defendant Officers on the day in question that warranted Plaintiff's arrest.

2. The Plaintiff was not required to produce his ID card/driver's license or to Identify himself to the Defendant officers under Alabama Law.

The Supreme Court has analyzed an arrest made when a suspect refuses to produce identification and has held that although a person stopped in a *Terry* investigative stop is not required under the Fourth Amendment to answer questions, a "state law requiring a suspect to disclose his name in the course of a **valid** *Terry* stop is consistent with Fourth Amendment prohibitions against unreasonable searches and seizures." Hiibel v. Sixth Judicial Dist. of Nevada, Humboldt Cty., 542 U.S. 177, 187 (2004) (emphasis added). In this case, Alabama has such a statute. See Ala. Code §15-5-30. Ala. Code § 15-5-30 provides the following:

A sheriff or other officer acting as sheriff, his deputy or any constable, acting within their respective counties, any marshal, deputy marshal or policeman of any incorporated city or town within the limits of the county or any highway patrolman or state trooper may stop any person abroad in a public place whom he reasonably suspects is committing, has committed or is about to commit a felony or other public offense and may demand of him his name, address and an explanation of his actions.



Ala. Code § 15-5-30.

According to the Defendant officers, Plaintiff was unlawfully detained/arrested for failing to provide the Defendant officers with identification. The “plain language” in Ala. Code § 15-5-30, that a *law enforcement officer* may stop any person abroad in a ***public place*** whom he reasonably suspects is committing, has committed or is about to commit a felony or other public offense and may demand of him his name, address and an explanation of his actions. It is undisputed that the Plaintiff was on ***private property*** when he was accosted by the Defendant officers. Thus, the Plaintiff was under no legal obligation to provide the individual Defendant officers his driver license, his name, address, and explanation of his actions, or his identification to Defendant officers. Moreover, Ala. Code § 22-15A-3(8) clearly states that a private residence is not a “public place.” Notably, all of the Defendant officers deposed that the Plaintiff was on private property. Further, the above statute does not require a suspect to give the officer a driver's license or any other document.” See Hiibel, 542 U.S. at 185. Based on the record and contrary to the Defendant officers’ argument, Defendant Smith clearly demanded for the Plaintiff to produce his identification/driver license. Notably, at the time Defendant Smith asked for the Plaintiff’s identification, Defendant Smith made a hand gesture clearly indicating he was asking for the Plaintiff’s ID card or driver’s license to identify the Plaintiff. Further, Defendant Smith acknowledges in his written report

that he was asking for the Plaintiff's driver's license. Notably, the Defendant collectively admitted to Amanda that the Plaintiff was arrested for saying he was being racially profiled, *refusing to give his identification card* and to tell them why he was on his neighbor's property.

As articulated above, the Defendant officers had no arguable reasonable suspicions that the Plaintiff was committing, has committed or is about to commit a felony or other public offense to warrant him to ask Plaintiff's name, address and an explanation of his actions. Further, the Defendant officers accosted the Plaintiff on *private property and was under no legal authority to demand the Plaintiff to provide* his name, address and an explanation of his actions to the Defendant officers. Notably, and contrary to the Defendant officers' argument, the Plaintiff told Defendant Smith his name was Pastor Jennings, why he was on the property and pointed to his house. Therefore, the Plaintiff's detention and subsequently arrest violated Alabama's well established statutory law.

3. The Defendant officers retaliated against the Plaintiff after engaging in protected speech under the First Amendment.

At the time of the complained of events, the Plaintiff had a clearly established constitutional right under the First Amendment to be free from arrest after engaging in protected speech under the First Amendment. "It is also clearly established law in this Circuit that law enforcement officers cannot punish or retaliate against individuals for expressing their First Amendment rights. Bennet v. Hendrix, 423

F.3d 1247, 1255-56 (11th Cir. 2005). It is unequivocally and objectively clear, based on body worn camera footage, that the Plaintiff was placed in a police car and transported to jail only after he verbally expressed his displeasure of how Defendant Brooks was speaking to him. As aforementioned, Defendant Brooks can be heard telling the Plaintiff, “They have a right to identify you.” Defendant Brooks then says, “Sir, listen. You won’t listen,” and the Plaintiff says, “Y’all don’t listen.”

Defendant Brooks explains that “everything is being audio and video recorded,” and says, “You won’t shut your mouth.” (Doc. 47-8, at 18:27:54 to 18:27:56.) The Plaintiff then tells Defendant Brooks, “You don’t shut your mouth. You don’t talk to me like I’m a child, Boy.” Defendant Smith turns away from his police car and says, “You know what? 10-15, 10-15. I ain’t gonna sit there and have that, dude.”

Defendant Brooks also says, virtually simultaneously, “You know what? Go ahead, you’re going to jail. *You talked your way into going to jail.*” The Defendant officers made the decision to arrest and transport the Plaintiff after they illegal detained him in retaliation after Pastor Jennings engaged in constitutionally protected speech and conduct. The statements made by Pastor Jennings were not fighting words. The statements and conduct of Pastor Jennings constituted protected speech under the First Amendment. Therefore, the Plaintiff’s arrest was in violation of his First Amendment rights.

4. The Defendant officers are not entitled to qualified immunity on Plaintiff's First and Fourth Amendment Claims.

Qualified immunity shields officials performing discretionary functions ... from liability for civil damages insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have Harlow v. Fitzgerald, 457 U.S. 800, 818, (1982). In the case of a Terry stop, an officer is entitled to qualified immunity if he has “arguable” reasonable suspicion. Jackson v. Sauls, 206 F.3d 1156, 1166 (11th Cir. 2000). If there is no objective factual basis for the claim of reasonable suspicion, there is no qualified immunity. Id. Whether a stop is made with arguable reasonable suspicion is measured by a purely objective standard of what a reasonable officer in the defendant’s position would have perceived. Young v. Eslinger, 244 Fed. Appx. 278, 279-80 (11th Cir. 2007). Based on the above facts and authority, the Defendant officers are not entitled to qualified immunity because the detention of the Plaintiff was unlawful ab initio. No reasonable jury can conclude that the Defendant officers had an arguable reasonable suspicion to believe the Plaintiff was committing a crime once they made contact with him. Further, it has been clearly established that in the absence of reasonable suspicion justifying the stop, a person approached by an officer “need not answer any question put to him; indeed, he may decline to listen to the questions at all and may go on his way.” Florida v. Royer, 460 U.S. 491, 497-98 (1983) (citing Terry, 392 U.S. at 32-33 (Harlan, J., concurring) and 34 (White, J., concurring)). An

individual “may not be detained even momentarily without reasonable, objective grounds for doing so; and his refusal to listen or answer does not, without more, furnish those grounds.” Id. at 498 (citing United States v. Mendenhall, 446 U.S. 544, 556 (1980)). “It is also clearly established law in this Circuit that law enforcement officers cannot punish or retaliate against individuals for expressing their First Amendment rights. Bennet v. Hendrix, 423 F.3d 1247, 1255-56 (11th Cir. 2005). It is unequivocally and objectively clear, based on body worn camera footage, that the Plaintiff was placed in a police car and transported to jail only after he verbally expressed his displeasure of how Defendant Brooks was speaking to him. Therefore, the Defendant officers are not entitled to qualified immunity on Plaintiff’s First and Fourth Amendment claims. Finally, clear objective evidence, the body worn cameras shows that Defendant Smith arrested the Plaintiff after he was unlawfully detained by Defendant Gable and Defendant Brooks was an active participant in the arrest of the Plaintiff. As aforementioned, Defendant Brooks stated, to the Plaintiff, “You know what? Go ahead, you’re going to jail. You talked your way into going to jail.” In fact, Defendant Brooks told Amanda that the Plaintiff was arrested for saying he was being racially profiled, refusing to give his identification card and to tell them why he was on his neighbor’s property.

5. All Defendant Officers participated in the unlawful arrest of the Plaintiff and are not entitled to qualified immunity on Plaintiff's First and Fourth Amendment Claims.

The Defendants argues that Defendants Gable and Brooks are not liable because Defendant Smith performed the arrest. However, video evidence clearly shows that Defendants Gable and Brooks are not just bystanders but were direct participants in the unlawful detention and arrest of the Plaintiff. First, Defendant Gable applied handcuffs on the Plaintiff and restricted the Plaintiff's movement. (Doc. 47-4, at 18:26:15 to 18:26:23; Doc. 47-6, at 18:26:15 to 18:26:23.) As stated above, Defendant Brooks nor the other Defendants, possessed any arguable reasonable suspicion to believe the Plaintiff was committing a crime once they made contact with him. The totality of the circumstances showed that no criminal activity was afoot. If there is no objective factual basis for the claim of reasonable suspicion, there is no qualified immunity. Jackson at 1156. Second, Defendant Brooks stated, virtually simultaneously with Defendant Smith, "You know what? Go ahead, you're going to jail. You talked your way into going to jail." (Doc. 47-8, at 18:28:00 to 18:28:07.) In fact, the Defendant Officers disclosed to Amanda their true animus of why they arrested the Plaintiff. They disclosed to her, the Plaintiff was arrested for saying they were racially profiling him, refusing to give his identification card and to tell them why he was on his neighbor's property. Further, it is well established that a non-arresting officer may be liable for failing to intervene in an unlawful arrest

"if he knew the arrest lacked any constitutional basis and yet participated in some way." See Wilkerson v. Seymour, 736 F.3d 974, 980 (11th Cir. 2013). Although both Defendants Gable and Brooks directly participated in the unlawful detention and arrest of the Plaintiff, at minimum they are liable for their failure to intervene making them directly liable under Section 1983.

**C. The Defendant Offices are NOT to State-Agent Immunity on the Plaintiff's State Law False Arrest Claim.**

Police officers in the state of Alabama have State-agent immunity from any "tort liability arising out of [their] conduct in the performance of any discretionary function within the line and scope of [their] law enforcement duties." Ala. Code § 6-5-338(a) (1975). This entitlement to immunity applies to an officer's exercise of judgment in enforcing the criminal laws (including arrests and attempted arrests) unless the State agent acts willfully, maliciously, fraudulently, in bad faith, beyond his or her authority, or under a mistaken interpretation of the law. See Ex parte Cranman, 792 So. 2d 392 (Ala. 2000), holding modified by Hollis v. City of Brighton, 950 So. 2d 300 (Ala. 2006); Howard v. City of Atmore, 887 So. 2d 201, 204–05 (Ala. 2003) (citation omitted). However, the record is inundated with facts that show the Defendants acted willfully, maliciously, fraudulently, in bad faith, beyond his or her authority, or under a mistaken interpretation of the law.

1. Defendants acted willfully, maliciously, fraudulently, in bad faith, beyond their authority in detaining and arresting the Plaintiff.

No arguable reasonable suspicion for an investigatory detention to justify the demand for an ID card or for Plaintiff to Identify himself. The Defendant officers retaliated against the Plaintiff after engaging in protected speech under the First Amendment. This Court need not venture outside of the video evidence that illuminates that the Defendants acted willfully, maliciously, fraudulently, in bad faith, beyond their authority in detaining and arresting the Plaintiff. Defendant Brooks admitted to Amanda that the Plaintiff was arrested for saying he was being racially profiled, refusing to give his identification card and to tell them why he was on his neighbor's property. This Court should take this admission as key evidence that the Defendant officers acted willfully, maliciously, fraudulently, in bad faith, beyond their authority in detaining and arresting the Plaintiff. First, the Plaintiff had/has an absolute First Amendment right to voice his opinion of why he was being arrested. Next, as outlined above, the Plaintiff was under no legal obligation to provide the Defendant officers with his identification card or identity based on the circumstances and facts in this case.

2. Defendants acted under a mistaken interpretation of the law. in detaining and arresting the Plaintiff.

According to the Defendant officers, Plaintiff was unlawful detained/arrested for failing to provide the Defendant officers with identification. The "plain



language” in Ala. Code § 15-5-30, that a *law enforcement officer* may stop any person abroad in a ***public place*** whom he reasonably suspects is committing, has committed or is about to commit a felony or other public offense and may demand of him his name, address and an explanation of his actions. It is undisputed that the Plaintiff was on ***private property*** when he was accosted by the Defendant officers. Thus, the Plaintiff was under no legal obligation to provide the individual Defendant officers his driver license, his name, address, and explanation of his actions, or his identification to Defendants officers. Moreover, Ala. Code § 22- 15A-3(8) clearly states that a private residence is not a "public place." Notably, all of the Defendant officers deposed that the Plaintiff was on private property. Further, the above statute does not require a suspect to give the officer a driver's license or any other document.” See Hiibel, 542 U.S. at 185. Based on the record and contrary to the Defendant officers’ argument, Defendant Smith clearly demanded for the Plaintiff to produce his identification/driver license. Notably, at the time Defendant Smith asked for the Plaintiff’s identification, Defendant Smith made a hand gesture clearly indicating he was asking for the Plaintiff’s ID card or driver’s license to identify the Plaintiff. Further, Defendant Smith acknowledges in his written report that he was asking for the Plaintiff’s driver’s license. As stated above, the Defendant Officers discussed with Amanda that the Plaintiff was arrested for saying they were racially profiling him, refusing to give his identification card and to tell them why he was on

his neighbor's property. This entitlement to immunity applies to an officer's exercise of judgment in enforcing the criminal laws (including arrests and attempted arrests) unless the State agent acts willfully, maliciously, fraudulently, in bad faith, beyond his or her authority, or under a mistaken interpretation of the law. See Ex parte Cranman, 792 So. 2d 392 (Ala. 2000), holding modified by Hollis v. City of Brighton, 950 So. 2d 300 (Ala. 2006); Howard v. City of Atmore, 887 So. 2d 201, 204–05 (Ala. 2003) (citation omitted). Based on the above, the Defendant Offices are not entitled to state-agent immunity on the Plaintiff's state law false arrest claim.

## VI. CONCLUSION

The Plaintiff respectfully request this Honorable Court to deny the Defendant Officers' summary judgment in its entirety.

Respectfully submitted this 26<sup>th</sup> day of May 2023,

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**CERTIFICATE OF FILING AND SERVICE**

I hereby certify that the following has been served a copy of the foregoing document, on the 26th day of May 2023, by emailing opposing counsel; or, if the party being served is a registered participant in the ECF System of the United States District Court for the Northern District of Alabama, by a “Notice of Electronic Filing” pursuant to N.D. Ala. Local Rule 5.4:

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[DO NOT PUBLISH]

In the  
**United States Court of Appeals**  
For the Eleventh Circuit

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No. 23-14171

Non-Argument Calendar

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MICHAEL JEROME JENNINGS,

Plaintiff-Appellant,

*versus*

CHRISTOPHER SMITH,

in his individual capacity,

JUSTIN GABLE,

in his individual capacity,

JEREMY BROOKS,

in his individual capacity,

CHILDERSBURG, ALABAMA, CITY OF,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Northern District of Alabama  
D.C. Docket No. 1:22-cv-01165-RDP

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Before WILSON, ROSENBAUM, and GRANT, Circuit Judges.

PER CURIAM:

Plaintiff-Appellant Michael Jennings appeals the district court’s grant of summary judgment for three City of Childersburg Police Officers based on qualified immunity and grant of the City of Childersburg’s motion to dismiss based on state-agent immunity. Jennings argues that the officers are not entitled to qualified immunity because they lacked probable cause for his arrest, and without this showing, the City is not entitled to state agent immunity. After careful review, we reverse the district court.

I.

On May 22, 2022, a 911 caller requested that police check on her neighbors’ home. She reported that her elderly white neighbors had left town and she saw an unfamiliar gold vehicle and a young Black male around the home. Childersburg Police Officer Christopher Smith responded to the call.

Upon arrival, Officer Smith saw Jennings, a Black man, with a garden hose and asked what he was doing on the property. Jennings responded, “watering flowers.” Officer Smith asked if

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Jennings lived at the residence, and he said he did not. Officer Smith explained that police had received a 911 call regarding someone on the property. Jennings replied, “I’m supposed to be here. I’m Pastor Jennings. I live across the street. . . . I’m looking out for the house while they gone, I’m watering they flowers.”

In response, Officer Smith said, “Okay, that’s cool, do you have, like, ID?” and motioned with his hands as if to request a driver’s license. Jennings stopped watering the flowers and walked away from Officer Smith, stating in a raised voice, “Oh, no man, I’m not gonna give you no ID.” Officer Smith asked, “Why not?” and Jennings replied, “I ain’t did nothing wrong.” Officer Smith responded, “Well, look, listen I’m not saying that you did nothing wrong, but there’s a suspicious person in the yard, and if you’re not going to identify yourself. . . .” Jennings interrupted to say that he did not have to identify himself.

Childersburg Police Officer Justin Gable then arrived at the scene. Officer Gable also asked Jennings if he lived at the house, and Jennings answered, “You see a Black man out here watering neighbors’ flowers. . . . You have no right to approach me if I ain’t did nothing suspicious or nothing wrong. Told him I’m a pastor, I pastor at a church.” The parties continued talking over each other, and Jennings eventually retorted, “I don’t want to hear you, you want to lock me up, lock me up. . . . I’m not gonna show y’all anything. I’m gonna continue to water these flowers.” The officers continued trying to speak with Jennings, but he walked away from them yelling, “I don’t care who called y’all. . . . Lock me up and see

what happens.” Officers Smith and Gable followed Jennings and instructed him to “just come here and talk to us.” Jennings continued distancing himself and demanded that the officers tell him who called them. Officer Smith stated, “If you would let us talk to you, we could figure stuff out.” Officer Gable warned Jennings that he would get an “obstruction charge” if he continued walking away. Jennings stopped, turned around, and said, “You can do whatever you want. Do it.” Officers then placed Jennings in handcuffs. Officer Gable explained, “We’re just trying to talk to you. . . . I don’t want to argue with you. . . . I don’t want to arrest you either.” Jennings and the officers continued yelling over each other, and Jennings eventually said, “I don’t have to ID myself.” Officer Gable replied, “I have a call on you, you have to identify yourself to me.” Jennings continued to refuse to identify himself, and Gable reiterated, “It’s okay if you’re out here to water the plants, talk to us.”

By this time, Childersburg Police Sergeant Jeremy Brooks had also arrived. As Jennings continued to yell at the officers, Sergeant Brooks interrupted to explain that the officers had a right to identify him. Sergeant Brooks continued, “Everything is being audio and video recorded. You won’t shut your mouth.” Jennings shouted, “You don’t shut your mouth. You don’t talk to me like I’m a child, boy!” Officers then arrested Jennings and placed him in the back of the police cruiser.

Jennings sued Officer Christopher Smith, Officer Justin Gable, and Sergeant Jeremy Brooks under 42 U.S.C. § 1983 for unlawful and retaliatory arrest and sued the officers and the City of



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Childersburg (collectively, Appellees) under Alabama law for false arrest. The officers moved for summary judgment, and the City moved to dismiss. The district court granted both motions, finding that the officers were entitled to qualified and state-agent immunity and the City was entitled to state-agent immunity because probable cause existed for the arrest. Jennings timely appealed.

II.

We review the summary judgment decision of the district court de novo, applying “the same legal standard used by the district court” and construing the facts “in the light most favorable to the non-moving party.” *Smith v. Owens*, 848 F.3d 975, 978 (11th Cir. 2017).

III.

We first address the related issues of qualified immunity and unlawful arrest. Generally, when public officials perform discretionary duties, as the parties agree the officers were in this case, they may claim the protection of qualified immunity. *See Holloman ex rel. Holloman v. Harland*, 370 F.3d 1252, 1263–64 (11th Cir. 2004). To rebut this defense, the plaintiff must show both that “the defendant’s conduct violated a statutory or constitutional right” and the right was “clearly established.” *Skop v. City of Atlanta*, 485 F.3d 1130, 1137 (11th Cir. 2007) (internal quotation marks omitted). “We may decide these issues in either order,” but the plaintiff must satisfy both points to negate qualified immunity. *Hinson v. Bias*, 927 F.3d 1103, 1116 (11th Cir. 2019).

Jennings argues that Appellees violated his Fourth Amendment right to be free from unreasonable searches and seizures by arresting him without probable cause. Whether a seizure, including an arrest, is reasonable under the Fourth Amendment depends on the presence of probable cause. *Case v. Eslinger*, 555 F.3d 1317, 1326–27 (11th Cir. 2009). Probable cause exists “where a reasonable officer could conclude—considering all of the surrounding circumstances, including the plausibility of the explanation itself—that there was a substantial chance of criminal activity.” *Edger v. McCabe*, 84 F.4th 1230, 1236 (11th Cir. 2023) (internal quotation marks omitted).

Probable cause is the cornerstone of Jennings’ appeal. The existence of probable cause both allows for a qualified immunity defense and defeats § 1983 claims for false and retaliatory arrests. *Carter v. Butts Cnty.*, 821 F.3d 1310, 1319 (11th Cir. 2016); *DeMartini v. Town of Gulf Stream*, 942 F.3d 1277, 1297 (11th Cir. 2019). Probable cause also blocks Jennings’ state-law false arrest claim. *See Ex parte Harris*, 216 So. 3d 1201, 1214 (Ala. 2016) (finding state-agent immunity for an officer under Alabama Code § 6-5-338(a) on plaintiff’s false arrest claim because of the existence of probable cause).

Even without probable cause, a court may still grant qualified immunity to an officer who had arguable probable cause for the arrest. *Skop*, 485 F.3d at 1137. Arguable probable cause exists where “a reasonable officer, looking at the entire legal landscape at the time of the arrests, could have interpreted the law as permitting the arrests.” *Garcia v. Casey*, 75 F.4th 1176, 1186 (11th Cir. 2023)

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(quotation marks omitted). The arguable probable cause inquiry in a false arrest case is “no different from the clearly established law inquiry in any other qualified immunity case.” *Id.* at 1187. If the court “conclude[s] that the officers had arguable probable cause then we conclude that their violation of the law was not clearly established and vice-versa.” *Edger*, 84 F.4th at 1236.

The presence of actual or arguable probable cause “depends on the elements of the alleged crime and the operative fact pattern.” *Id.* at 1237 (quotation marks omitted). Here, Jennings was charged under Alabama Code § 13A-10-2(a)<sup>1</sup> with obstructing governmental operations. Appellees maintain they had at least arguable probable cause under the statute because (1) Jennings used intimidation or physical interference to impair the officers in the governmental function of investigating the scene and (2) Jennings committed an independent unlawful act by failing to adequately identify himself to intentionally prevent investigation.

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<sup>1</sup> The Alabama statute for obstructing governmental operations provides the following:

A person commits the crime of obstructing governmental operations if, by means of intimidation, physical force or interference or by any other independently unlawful act, he: (1) Intentionally obstructs, impairs or hinders the administration of law or other governmental function; or (2) Intentionally prevents a public servant from performing a governmental function.

Ala. Code § 13A-10-2(a).

To start, the facts do not support that Jennings intimidated or physically interfered with the officers. Section 13A-10-2 requires that a person interfere with law enforcement using a “physical movement, threat, or motion of violence”—“words alone” are not enough. *D.A.D.O. v. State*, 57 So. 3d 798, 806–07 (Ala. Crim. App. 2009); *Garcia*, 75 F.4th at 1188. Walking *toward* officers while yelling or speaking can supply the physical interference or intimidation element; walking *away* does not. *See generally D.A.D.O.*, 57 So. 3d at 806–07 (yelling at an officer while leaving an officer’s presence falls short of intimidation or physical interference under § 13A-10-2). Here, even though Jennings shouted and made potentially threatening statements like “see what happens,” he did so over his shoulder as he was walking away from the officers. Without more, intimidation or physical interference cannot support a finding of probable cause.

Next, Appellees contend that Jennings’ refusal to identify himself was an independent unlawful act under Alabama Code § 15-5-30. This statute allows an Alabama police officer to stop a person in a public place, if he “reasonably suspects” that person has committed, is committing, or is about to commit a crime, and demand of him three things: “his name, address and an explanation of his actions.” *Id.*<sup>2</sup>

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<sup>2</sup> While the Fourth Amendment does not impose an obligation to answer police questions, state law may require a person to identify himself during a stop to investigate reasonable suspicion. *See Hiibel v. Sixth Jud. Dist. Ct. of Nev.*, 542

Jennings argues that he was not arrested for refusing to give those three pieces of information but rather because he declined to show physical identification. In support, Jennings relies on this court’s decision in *Edger v. McCabe*, 84 F.4th 1230 (11th Cir. 2023). *Edger* held that an Alabama police officer violates clearly established law when she arrests a person solely for failing to provide a driver’s license or physical identification under Alabama Code § 15-5-30. 84 F.4th at 1239–40. We agree that this case falls within the purview of *Edger*.

In *Edger*, two police officers arrived at the scene where Edger, a mechanic, was working on a client’s car. *Id.* After a couple initial questions, one officer demanded to see Edger’s ID. *Id.* When Edger refused, the officers arrested him, even though he continued trying to explain himself. *Id.*

The court held that no reasonable officer could interpret the law to permit Edger’s arrest based on three main principles of clearly established law. *Id.* at 1238–39. First, under the Fourth Amendment, the police are free to ask questions, and the public is free to ignore them. *Id.* at 1239. Second, any legal obligation to speak to the police and answer their questions arises as a matter of state law. *Id.* Third, the plain text of the statute authorizes police to demand only three things: “name, address and an explanation of his actions.” Ala. Code § 15-5-30. Ultimately, while there are no “magic words” that an officer must utter, there is a marked

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U.S. 177, 187 (2004). Alabama Code § 15-5-30 is one so-called “stop-and-identify” statute.

difference between asking for three specific pieces of information and demanding a physical license or ID. *Edger*, 84 F.4th at 1239.

Like *Edger*, Jennings was arrested for his refusal to provide officers with physical identification. When Officer Smith explained that he was on the property to investigate a suspicious person, Jennings clarified, “I’m supposed to be here. I’m Pastor Jennings. I live across the street. . . . I’m looking out for the house while they gone, I’m watering they flowers.” This information closely tracks what officers may request under Alabama Code § 15-5-30 (name, address, and an explanation for one’s actions). However, Officer Smith proceeded to request Jennings’ “ID” and to gesture with his hands in a way that indicated he meant a physical card.

In other circumstances, this court has acknowledged “we are loath to second-guess the decisions made by police officers in the field.” *See Penley v. Eslinger*, 605 F.3d 843, 854 (11th Cir. 2010). Police officers “conduct approximately 29,000 arrests every day—a dangerous task that requires making quick decisions in circumstances that are tense, uncertain, and rapidly evolving.” *Nieves v. Bartlett*, 587 U.S. 391, 403 (2019) (internal quotation marks omitted). But here, the officers never asked the fundamental questions in trying to ascertain a person’s full name or address: “What is your name?” or “What is your address?” Even if there are no “magic words” that an officer must utter, *Edger*, 84 F.4th at 1239, it must be obvious that officers actually seek a name, address, and explanation. Given that Jennings had already told officers he was “Pastor Jennings,” he lived across the street, and he was there to water his neighbors’

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flowers, the officers’ subsequent commands for Jennings to “identify himself” and statements that “you have to identify yourself to me” were clearly requests for something more—physical identification.

While it is always advisable to cooperate with law enforcement officers, Jennings was under no legal obligation to provide his ID. Therefore, officers lacked probable cause for Jennings’ arrest for obstructing government operations because Jennings did not commit an independent unlawful act by refusing to give ID. Additionally, because *Edger* explained that Alabama Code § 15-5-30 was, and is, clearly established law, 84 F.4th at 1239, these officers lacked even arguable probable cause. Accordingly, we reverse the district court’s grant of summary judgment on Jennings’ unlawful arrest claim because the officers are not entitled to qualified immunity.

#### IV.

Jennings also argues that the district court erred by granting summary judgment to the officers on his § 1983 First Amendment retaliatory arrest claim. To bring a First Amendment claim for retaliation, a plaintiff generally must show: (1) he “engaged in constitutionally protected speech,” (2) “the defendant’s retaliatory conduct adversely affected that protected speech,” and (3) “a causal connection exists between the defendant’s retaliatory conduct and the adverse effect on the plaintiff’s speech.” *DeMartini*, 942 F.3d at 1289. In the retaliatory arrest context, a plaintiff must affirmatively prove the absence of probable cause for the arrest. *Nieves*, 587 U.S. at 404. The absence of probable cause generally provides “weighty

evidence that the officer’s animus caused the arrest.” *Id.* at 402. Meanwhile, the existence of probable cause usually bars a retaliatory arrest claim as a matter of law. *Id.* at 408. Still, once the plaintiff disproves probable cause, he must then prove causation using the framework established by Supreme Court in *Mt. Healthy City School District Board of Education v. Doyle*, 429 U.S. 274, 276 (1977).

In *Mt. Healthy*, a teacher sued a city board of education after the board decided not to rehire him. *Id.* The plaintiff alleged that the adverse employment decision resulted from a call he made to a local radio station, but the board claimed that the teacher’s unprofessionalism, not his protected speech, prompted the decision. *Id.* at 282–84. To determine the true cause, the Supreme Court held that the plaintiff must show that the speech was a “substantial” or “motivating factor,” and if the plaintiff meets that burden, the burden shifts to the defendant to establish that he “would have reached the same decision . . . even in the absence of the protected conduct.” *Id.* at 287. This burden-shifting framework for proving causation now applies not only in the employment context but also in retaliatory arrest cases. *See Nieves*, 587 U.S. at 404.

On appeal, Jennings argues that (1) his speech was constitutionally protected, (2) his arrest adversely affected his speech, and (3) his speech was a motivating factor for the arrest. First, we agree that Jennings’ speech was constitutionally protected. The First Amendment protects “a significant amount of verbal criticism and challenge directed at police officers.” *City of Houston v. Hill*, 482 U.S. 451, 461 (1987). And Jennings’ verbal jabs at police do not rise to



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the level of “fighting words” that might remove them from First Amendment protection. *See id.* at 461–62. Second, the arrest clearly adversely affected Jennings’ speech. An arrest would certainly “deter a person of ordinary firmness from exercising his or her First Amendment rights.” *Bennett v. Hendrix*, 423 F.3d 1247, 1252 (11th Cir. 2005).

The third element is causation, which asks whether the officer “would have taken the action complained of” even “without the impetus to retaliate.” *Hartman v. Moore*, 547 U.S. 250, 260 (2006). To start, this court’s no-probable-cause finding lends “weighty evidence that the officer’s animus caused the arrest.” *Nieves*, 587 U.S. at 402. But that does not end the analysis. Jennings claims that his speech was a motivating factor for his arrest because the officers decided to arrest him only after he protested the way the officers were speaking to him and Officer Brooks explained, “You talked your way into going to jail.” This evidence seemingly points to speech as a motivating factor for the arrest.

For their part, Appellees argue that they arrested Jennings because he did not identify himself. Even though Alabama law does not allow officers to arrest someone for refusing to provide an ID, the officers here may be able to escape liability for First Amendment retaliatory arrest if they can show they would have arrested Jennings even in the absence of his protected speech. Ultimately, both sides present differing evidence for the cause of Jennings’ arrest. “Credibility determinations, the weighing of the evidence, and the drawing of legitimate inferences from the facts are jury

functions.” *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 255 (1986). Therefore, we reverse the district court’s grant of summary judgment to the officers on Jennings’ retaliatory arrest claim and leave the jury to decide if Jennings’ arrest “would have been initiated without respect to retaliation.” *DeMartini*, 942 F.3d at 1296 (quotation marks omitted).

V.

Finally, Jennings appeals the grant of summary judgment to the officers and the dismissal of the claim against the City of Childersburg based on the district court’s findings of state-agent immunity. “We review *de novo* a district court’s interpretation of a state law.” *Jones v. United Space All., LLC*, 494 F.3d 1306, 1309 (11th Cir. 2007). The state-agent immunity defense is based in Alabama law. Specifically, Alabama Code § 6-5-338 grants municipal officers “immunity from tort liability arising out of his or her conduct in performance of any discretionary function within the line and scope of his or her law enforcement duties.” This immunity does not apply when an officer “acts willfully, maliciously, fraudulently, in bad faith, beyond his or her authority, or under a mistaken interpretation of the law.” *Ex parte Cranman*, 792 So. 2d 392, 405 (Ala. 2000).

The existence of probable cause, particularly the facts establishing probable cause, “contradict any suggestion of malicious intents or bad faith.” *Ex parte Harris*, 216 So. 3d at 1214 (citing *Wood v. Kesler*, 323 F.3d 872, 884 (11th Cir. 2003)). A finding of even arguable probable cause allows officers to invoke state-agent immunity

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under § 6-5-338. *Id.* And when state-agent immunity applies to police officers, it also applies to the municipality that employs them. *See Ex parte Dixon*, 55 So. 3d 1171, 1179 (Ala. 2010).

On appeal, Jennings contends that officers acted willfully, maliciously, fraudulently, in bad faith, and beyond their authority by arresting him in retaliation for his speech. He also argues that officers acted under a mistaken interpretation of law for arresting him for refusing to give physical identification. Without a showing of probable cause, the record does not allow us to make the state-agent immunity determination. Appellees make no argument on appeal that they should be still entitled to state-agent immunity in the absence of probable cause. The district court did not conduct any analysis of state-agent immunity independent of the actual or arguable probable cause inquiry. Accordingly, we reverse the district court's grant of summary judgment on the state-law false arrest claim, vacate the dismissal of the state law claim against the City, and remand for further proceedings.

**REVERSED and REMANDED.**