

Circuit Court for Montgomery County  
Case No. 425615V

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 562

September Term, 2017

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SHARON HARLEY

v.

STEVE WILLIAMS

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Berger,  
Friedman,  
Fader,

JJ.

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Opinion by Friedman, J.

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Filed: October 25, 2018

\*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

The Circuit Court for Montgomery County found that Steve Williams had probable cause to file a statement of charges against Sharon Harley and that, therefore, Harley could not establish a necessary element of her malicious prosecution suit against Williams. We agree and affirm.

### **BACKGROUND**

Sharon Harley bought the property at 12608 Kavanaugh Lane in Bowie, Maryland in 1997. Less than a year later, she defaulted on the mortgage. The property was sold at foreclosure and acquired by the U.S. Department of Housing and Urban Development (HUD). HUD tried to evict Harley several times but eventually came to an agreement that let her stay in the home, pursuant to a lease, until the foreclosure issues were resolved. HUD evicted Harley in September, 2010. In 2011, HUD sold the property to Steve Williams who was acting in his capacity as the managing member of Stad Properties, LLC. Williams soon learned, however, that Harley had reentered the property and was claiming both ownership and the right of possession.<sup>1</sup> Williams investigated and was told by HUD and the attorney who had handled the sale that Stad had obtained good title to the property. Williams made several efforts to have the Bowie Police Department eject Harley from the property, and on April 23, 2011, Williams submitted an application for Statement of

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<sup>1</sup> Harley believes there is a crucial distinction between Old Kent Mortgage Co. and Old Kent Mortgage Services, Inc. and that because she was loaned money by one and foreclosure was initiated by another, this was fraud and invalidates any collection efforts. As we discuss below, it is not necessary for us to resolve Harley's claims of ownership to resolve this case. Nevertheless, we observe that such a defect in the foreclosure proceeding, if a defect at all, wouldn't result in a windfall by which Harley would be permitted to obtain ownership without payment.

Charges to the District Court of Maryland for Prince George’s County. In the space provided for a “concise statement of facts showing that there is probable cause to believe that a crime has been committed and that the Defendant committed it,” Williams wrote:

[Harley] prevented me from accessing and taking possession of [12608 Kavanaugh Lane] by changing my locks and blocking my entry to the property in the presence of 4 Bowie Police officers who I had called to assist me. She told the police and me that she still owns the property despite my presenting proof of ownership by way of Deed (Recorded April 8, 2011). [Harley] had been evicted from this property [on] or about Sept. 7, 2010 by the Sheriff pursuant to Warrant of Restitution (Circuit Court Case #CAL05-35024). [Harley] ... re-entered the property sometime after her eviction .... This constitutes a violation of MD Real Property Code §14-114. I subsequently discovered that on April 11, 2011 [Harley] filed a bogus deed from herself to herself with the specific intent to fraudulently obtain access to the property (Case Recorded Liber 32572 + Folio 574). This constitutes fraud against me, the State[,] and County. She entered the property without my consent and remains in the property after being already evicted to leave, she was notified by me to leave but refused. She’s trespassing in my property and told me that she has removed my personal property from the house including

- Bathroom fixtures (2 toilets, 2 sinks) \$400 value
- Refrigerator \$250 value
- Stove \$250 value
- Dishwasher \$200 value
- Lock set for exterior door \$100 value

\$1,200 Total Property Value Taken.

Also, she claims to be living there despite the fact that the property did not have any furnishings when I settled on it. The Bowie Police and I ... observed her Friend / Neighbor entering and leaving through the front door using the key to the door lock which she and he told me that they had replaced with the service of a locksmith.

Williams filed the application with a District Court Commissioner who reviewed it, determined that there was probable cause for the charges, and issued a statement of charges against Harley. The commissioner identified five separate criminal charges: burglary in second degree, theft over \$1,000, trespass, malicious destruction of property of over \$500, and reentry after eviction. A grand jury subsequently indicted Harley for nine charges: (1) theft over \$100,000; (2) attempt theft over \$100,000; (3) aggregate theft over \$500; (4) theft over \$500; (5) attempt theft over \$500; (6) obstruction of justice; (7) re-entry to property after eviction; (8) malicious destruction of property under \$500; and (9) trespass on private property. Ultimately, Harley was acquitted on all counts.

Harley then sued Williams for malicious prosecution. Williams moved for summary judgment. The circuit court found, as a matter of law, that Williams had probable cause to bring the charges and that, therefore, Harley's cause of action against him must fail. This timely appeal followed.

### **DISCUSSION**

A motion for summary judgment must be granted if there is no genuine dispute as to any material fact and the moving party is entitled to judgment as a matter of law. Md. Rule 2-501(f). In reviewing a decision to grant summary judgment, an appellate court reviews the same issues of law to determine whether the trial court was legally correct. *Haas v. Lockheed Martin Corp.* 396 Md. 469, 478-79 (2007).

When a trial judge grants a motion for summary judgment to a defendant based on one element of a cause of action, we ordinarily will evaluate only that element. *Ragin v. Porter*, 133 Md. App. 116, 133 (2000). The elements of malicious prosecution are: (1) a

criminal proceeding instituted or continued by the defendant against the plaintiff; (2) termination of the proceeding in favor of the accused; (3) an absence of probable cause for the proceeding; and (4) “malice,” which in this context is defined as being that the primary purpose in instituting the proceeding was something other than that of bringing an offender to justice. *Smithfield Packing Co., Inc. v. Evely*, 169 Md. App. 578, 592-93 (2006). Here, the circuit court found no dispute of material fact existed as to whether Williams had probable cause, that he did have probable cause, and that he was entitled to judgment as a matter of law. Thus, we must review whether the circuit court was legally correct in finding that Williams had probable cause.

We look to three established rules when evaluating the probable cause element in this instance. *First*, for probable cause, the “focus is on those facts known to, and genuinely believed by, the one initiating or continuing the prosecution.” *Palmer Ford v. Wood*, 298 Md. 484, 495 (1984). *Second*, probable cause exists when there is a “reasonable ground of suspicion supported by circumstances sufficiently strong in themselves to warrant a cautious man in believing that the accused is guilty.” *Id.* at 493 (cleaned up). And *third*, when material facts are undisputed, the question of whether probable cause existed is one of law for the court. *Palmer Ford*, 298 Md. at 498-99.

To evaluate whether probable cause existed, we review the evidence available to the parties and apply these rules. At the time Williams filed the application for statement of charges, four pieces of evidence existed: (1) the results of a Maryland Department of Assessments and Taxation (SDAT) search; (2) a certificate of satisfaction; (3) the deed; and (4) verbal assurances from both the attorney who handled the sale to Williams and

from a HUD representative. The first two pieces of evidence showed Harley as the owner of the property and the latter two revealed Williams as the owner. It is undisputed that Williams was aware of all four pieces of evidence when he filed his application for a statement of charges. Harley insists that because Williams was aware of the SDAT search results and the certificate of satisfaction, both of which showed Harley to be the property owner, Williams could not have had probable cause to file charges. Harley argues that because a dispute of material fact remained regarding the property's ownership, the trial court erred in granting summary judgment in favor of Williams.

Harley's theory, however, misunderstands the question of probable cause in two regards. *First*, as described above, we focus on the facts known to and genuinely believed by *Williams*, because he initiated the prosecution, not on facts known by *Harley*. *Second*, we focus on whether Williams' belief that he was the property owner was reasonable, not who, in actuality, was the property owner. Thus, properly understood, the sole question was whether, as a matter of law, the facts known to and genuinely believed by *Williams* would warrant a reasonable person to *believe* that he owned the property and therefore, that Harley was trespassing.<sup>2</sup>

With the question properly framed, we do not think it is difficult to determine that Williams had probable cause. As a matter of law, the evidence showing that he owned the

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<sup>2</sup> Harley's eventual acquittal does nothing to diminish that probable cause existed when Williams made his application. *Carter v. Aramark Sports and Entertainment Services, Inc.*, 153 Md. App. 210, 227-228 (2003) (reasoning that an acquittal does not disprove probable cause because the burden of proof at trial is a more rigorous standard than probable cause).

property—even in the face of contradictory evidence—was sufficient to give him a reasonable basis to believe that he owned the property. As a result, he had probable cause to believe that Harley was trespassing.

**CONCLUSION**

The circuit court did not err in granting summary judgment.

**JUDGMENT OF THE CIRCUIT COURT  
FOR MONTGOMERY COUNTY  
AFFIRMED. COSTS TO BE PAID BY  
APPELLANT.**