

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ROME DIVISION**

| | | |
|-----------------------------------|---|------------------------------|
| LUKE WOODARD |) | |
| |) | |
| Plaintiff |) | CIVIL ACTION FILE NO. |
| |) | |
| v. |) | 4:08-CV-178-HLM |
| |) | |
| TYLER DURHAM BROWN et.al., |) | |
| Defendants. |) | |

**MEMORANDUM OF LAW IN SUPPORT OF
PLAINTIFF'S MOTION FOR RECONSIDERATION**

Plaintiff brings this Motion for Reconsideration on the very narrow issue of whether the Court's finding of arguable probable cause to arrest Plaintiff for disorderly conduct provides Defendants with qualified immunity for arresting Plaintiff for carrying a concealed weapon. Plaintiff suffered additional, specific damages unique to the carrying a concealed weapon arrest that he would not have suffered for a disorderly conduct arrest.

This Court concluded that there was arguable probable cause to arrest Plaintiff for disorderly conduct, thus providing Defendants with qualified immunity for that arrest. The Court also concluded that Defendants also had qualified immunity for arresting Plaintiff for carrying a concealed weapon (a charge for which the Court concluded there was no arguable probable cause). Doc. 31, pp. 38, 63. Logically, a plaintiff arrested for one charge suffers all the damage

he will suffer regardless of how many additional charges might (wrongfully) be added by the arresting officer. This leads to the correct conclusion in most cases, but not in the instant case, in which Plaintiff was deprived of a Georgia firearms license (“GFL”) for a period of several months. Doc. 1, ¶¶ 25-26; Doc. 20, p. 21.

Plaintiff’s GFL expired in July, 2008, approximately two months after Defendants arrested him. *Id.* Because he had a charge for carrying a concealed weapon pending against him, he was unable to obtain a renewal GFL. *Id.*¹ Thus, Plaintiff suffered separate, special damages on account of Defendants’ wrongfully arresting him for carrying a concealed weapon. Because of this, Defendants’ qualified immunity shielding them against damages claims for arresting Plaintiff for disorderly conduct without probable cause should not also shield Defendants against damages claims for arresting Plaintiff for carrying a concealed weapon.

/s/ John R. Monroe

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¹ Under O.C.G.A. § 16-11-129(b)(2), a renewal GFL cannot be issued to anyone against whom are pending charges for carrying a concealed weapon. A pending charge for disorderly conduct, in contrast, is not a disqualifier.

Local Rule 7.1D Certification

The undersigned counsel certifies that the foregoing was prepared using Times New Roman 14 point, a font and point selection approved in LR 5.1B.

/s/ John R. Monroe

John R. Monroe

CERTIFICATE OF SERVICE

I certify that on July 26, 2009, I filed the foregoing, together with accompanying documents, using the ECF system, which automatically will send a copy to:

G. Kevin Morris
kevin@tew-law.com

/s/ John R. Monroe
John R. Monroe