

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Shawn Brye v. City of Stockton, et al.

Brye · No. 2:23-cv-00343-KJM-CSK · Decided November 5, 2025

SUMMARY

The United States District Court for the Eastern District of California grants defendants’ motion for summary judgment in Shawn Brye’s 42 U.S.C. § 1983 action. The court concludes that the officers did not use excessive force and had probable cause to arrest Brye for trespassing, while also holding that qualified immunity would apply even if those conclusions were incorrect. The court further holds that, although the record did not establish probable cause for the warrantless vehicle search, the officers were entitled to qualified immunity because the relevant law was not clearly established.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	November 5, 2025
DOCKET	2:23-cv-00343-KJM-CSK
DISPOSITION	other
PROCEDURAL POSTURE	Defendants moved for summary judgment on Brye's 42 U.S.C. § 1983 claims alleging excessive force, unlawful arrest, unlawful vehicle search, fabricated evidence, supervisory liability, and municipal liability. Brye withdrew several claims, and the court granted summary judgment on the remaining claims, principally on the merits and alternatively on qualified-immunity grounds.
STANDARD OF REVIEW	Summary judgment is appropriate when there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. The court views disputed evidence in the light most favorable to the nonmoving party, but may disregard a version of events blatantly contradicted by clear, undisputed video evidence. Qualified immunity is assessed by determining whether the facts show a constitutional violation and, if so, whether the right was clearly established in the specific context.
PRECEDENTIAL VALUE	nonprecedential

PARTIES

Shawn Brye v. City of Stockton, Stockton police officers

TOPICS

section 1983

qualified immunity

fourth amendment

search and seizure

summary judgment

PRACTICE AREAS

civil rights

constitutional law

criminal procedure

civil procedure

QUESTIONS PRESENTED

1. Whether the officers used objectively unreasonable force in restraining and arresting Brye.
2. Whether the officers had probable cause to arrest Brye for trespassing under California Penal Code section 602.
3. Whether the officers violated the Fourth Amendment by searching Brye's car without a warrant.
4. Whether the officers were entitled to qualified immunity on the excessive-force, unlawful-arrest, and unlawful-search claims.
5. Whether supervisory liability could be imposed on Thurlow for the allegedly unlawful search.

HOLDINGS

1. The officers did not use excessive force in arresting Brye. Their escalating physical response was objectively reasonable and proportional to Brye's refusal to leave, failure to follow instructions, and physical resistance to handcuffing.
2. The officers would be entitled to qualified immunity even if the force had violated the Fourth Amendment because Brye identified no case clearly establishing that this particular use of force against a resisting trespass suspect was unlawful.
3. The officers had probable cause to arrest Brye for trespassing under California Penal Code section 602(k).
4. The officers would be entitled to qualified immunity even if they lacked probable cause to arrest Brye because the cited circumstances did not violate clearly established law.
5. The record did not establish probable cause for the warrantless search of Brye's car, and the officers did not identify another applicable exception to the warrant requirement.
6. The officers were entitled to qualified immunity on the vehicle-search claim because, in February 2021, federal law did not clearly establish that the Fourth Amendment prohibited the search under these circumstances.

KEY QUOTATIONS

"Brye could not prove the officers used excessive force or lacked probable cause to make an arrest, and they would be entitled to qualified immunity even if he could." (at 1)

“The mere existence of video footage of the incident does not foreclose a genuine factual dispute as to the reasonable inferences that can be drawn from that footage.” (at 8)

“Probable cause is a question of what was reasonable to conclude from the circumstances the officers faced and the information they had at the time of the arrest, not of what statutory provision the officers had in mind, and not whether their suspicions ultimately were borne out in charges and a conviction.” (at 13)

“In sum, although genuine disputes of fact leave open the possibility that Brye could prove at trial the search was unconstitutional, the officers are entitled to qualified immunity because the relevant law was unclear at the time and did not put them on notice.” (at 21)

FACTUAL BACKGROUND

Stockton police received a trespassing-enforcement letter from the property manager of West Lane Plaza after repeated complaints about loitering, drug activity, harassment, and disturbances in the common areas. Officers arrested Brye for trespassing after finding him in the plaza and then again when he returned the next day, refused instructions to leave, and resisted attempts to handcuff him; during the struggle, officers brought him to the ground and he suffered a head wound. After the arrest, officers searched Brye's parked car without a warrant after seeing unburned marijuana crumbs and relying on a report of suspected drug activity, finding marijuana, a scale, and baggies. The district attorney declined to prosecute, citing insufficient grounds for the arrest and search.

PROCEDURAL HISTORY

Brye filed the action in February 2023 and proceeded on a Second Amended Complaint. He withdrew his claims against the City, his arrest-related supervisory claim against Thurlow, and his fabricated-evidence claim. The court also granted summary judgment to Howes, who was not at the scene, and to deceased defendant Jimmy Inn because no substitution was made under Federal Rule of Civil Procedure 25(a). The court granted summary judgment to Brown and Tela Inn on the remaining excessive-force, unlawful-arrest, and unlawful-search claims and directed the clerk to close the case.

DISPOSITION

other

CASES CITED

- *Matsushita Electric Industrial Co. v. Zenith Radio Corp.*, 475 U.S. 574, 587-88 (1986)
- *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986)
- *Adickes v. S.H. Kress & Co.*, 398 U.S. 144, 157 (1970)
- *Torres v. Madrid*, 592 U.S. 306, 317-18 (2021)
- *Estate of Hernandez v. City of Los Angeles*, 139 F.4th 790, 798 (9th Cir. 2025) (en banc)
- *Graham v. Connor*, 490 U.S. 386, 396 (1989)
- *Plumhoff v. Rickard*, 572 U.S. 765, 774 (2014)

- Scott v. Harris, 550 U.S. 372, 378, 380, 382 (2007)
- Vos v. City of Newport Beach, 892 F.3d 1024, 1028 (9th Cir. 2018)
- Kisela v. Hughes, 584 U.S. 100, 104 (2018)
- White v. Pauly, 580 U.S. 73, 78-79 (2017) (per curiam)
- Brosseau v. Haugen, 543 U.S. 194, 198 (2004) (per curiam)
- Rivas-Villegas v. Cortesluna, 595 U.S. 1, 5-6 (2021)
- Gregory v. County of Maui, 523 F.3d 1103, 1107 (9th Cir. 2008)
- Arpin v. Santa Clara Valley Transportation Agency, 261 F.3d 912, 921-22 (9th Cir. 2001)
- Forrester v. City of San Diego, 25 F.3d 804, 807-08 (9th Cir. 1994)
- Blankenhorn v. City of Orange, 485 F.3d 463, 467-74 (9th Cir. 2007)
- United States v. Jensen, 425 F.3d 698, 704 (9th Cir. 2005)
- Edgerly v. City & County of San Francisco, 599 F.3d 946, 953-54 (9th Cir. 2010)
- In re Catalano, 29 Cal. 3d 1, 10 n.8 (1981)
- People v. Wilkinson, 248 Cal. App. 2d Supp. 906, 908 (1967)
- In re Ball, 23 Cal. App. 3d 380, 382-87 (1972)
- Loretto v. Teleprompter Manhattan CATV Corp., 458 U.S. 419, 435 (1982)
- Allred v. Harris, 14 Cal. App. 4th 1386, 1390 (1993)
- Arizona v. Gant, 556 U.S. 332, 335, 343 (2009)
- Collins v. Virginia, 584 U.S. 586, 591-92 (2018)
- California v. Carney, 471 U.S. 386, 390, 392-93 (1985)
- United States v. Williams, 846 F.3d 303, 311-13 (9th Cir.)
- Arizona v. Hicks, 480 U.S. 321, 326-28 (1987)
- Horton v. California, 496 U.S. 128, 136-37 (1990)
- United States v. Stuckey, No. 22-153, 2023 WL 3931832, at *4 (E.D. Cal. June 9, 2023)
- People v. Hall, 57 Cal. App. 5th 946, 948 (2020)
- United States v. Steinman, 130 F.4th 693, 714 & n.10 (9th Cir. 2025)
- Virginia v. Moore, 553 U.S. 164, 176 (2008)
- United States v. Malik, 963 F.3d 1014, 1015-16 & n.1 (9th Cir. 2020) (per curiam)
- United States v. Gray, 772 F. App'x 565, 566-67 & n.2 (9th Cir. 2019) (unpublished)
- United States v. Martinez, 811 F. App'x 396, 397 (9th Cir. 2020) (unpublished)
- United States v. Talley, 467 F. Supp. 3d 832, 835-37 (N.D. Cal. 2020)
- District of Columbia v. Wesby, 583 U.S. 48, 63 (2018)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
 CALIFORNIA 10 1] Shawn Brye, No. 2:23-cv-00343-KJM-CSK 12 Plaintiff, ORDER 13 v. 14
 City of Stockton, et al., 15 Defendants. 16 17 Shawn Brye alleges officers of the Stockton Police

Department arrested him for 18 | trespassing without probable cause, used excessive force to arrest him, and then searched his car 19 | without a warrant, all in violation of the Fourth Amendment.

The officers move for summary 20 | judgment. As explained in this order, Brye could not prove the officers used excessive force or 21 | lacked probable cause to make an arrest, and they would be entitled to qualified immunity even if 22 | he could.

Finally, although the officers have not demonstrated on the record before the court that 23 | they had probable cause to search Brye's car, the law at the time was not clearly established, so 24 | the officers are entitled to qualified immunity in the face of that claim as well.

The court 25 | therefore grants the motion. 26 | I. BACKGROUND 27 There is for the most part no dispute about the incident that spurred this lawsuit. When 28 | the evidence does conflict, the court has viewed that evidence in the light most favorable to Brye, 1 the non-moving party, as required by Rule 56. See Fed. R. Civ. P. 56(a); Matsushita Elec. Indus. 2 Co. v. Zenith Radio Corp., 475 U.S. 574, 587–88 (1986).

3 The events in this case took place in West Lane Plaza, a small shopping area in Stockton, 4 California, where several businesses share a common parking lot and sidewalk. See Def. Exs. V– 5 GG (videos depicting shopping area).

In 2021, Manjinder Sahota, the owner of a liquor store in 6 the shopping area, had become frustrated with a persistent loitering problem. See Sahota Dep. at 7 9–12, Def. Ex. S, ECF No. 52. Day after day, people would gather on the shared sidewalk and in 8 the parking lot outside his store, where they would use and sell drugs and harass Sahota and his 9 customers.

See id. at 14–16, 29. Some customers also saw the people in the group carrying guns, 10 see id. at 15, and there were reports of a shooting in the parking lot, see id. at 11. Sahota felt 11 unsafe, and he spoke with the property manager, Michael Guindon, about the problem. See id. at 12 9, 32; Guindon Dep. at 9, 15–18, Def. Ex. U, ECF No. 52. 13 On February 15, 2021, the property manager gave the Stockton Police Department a 14 “Trespassing Enforcement Letter.” Def.

Ex. P, ECF No. 52. “I have not granted permission to 15 anyone to congregate on the business premises,” the letter said. Id. “Anyone on the property 16 (front yard, driveway, curtilage, back yard) is trespassing per the California Penal Code, section 17 602(m) and (n).” Id. Section 602(m) provides that “[e]ntering and occupying real property... 18 without the consent of the owner, the owner’s agent, or the person in lawful possession” is a 19 misdemeanor.

Section 602(n) similarly makes it a misdemeanor to drive “a vehicle... upon real 20 property... known not to be open to the general public, without the consent of the owner, the 21 owner’s agent, or the person in lawful possession.” Guindon intended for this letter to give the 22 Stockton Police Department authority to remove the people who were gathering in the common 23 areas at

West Lane Plaza, including the people who were harassing Sahota and his customers, for 24 the next thirty days.

See Guindon Dep. at 16–17. 25 After Guindon provided this letter, the Stockton Police Department began to receive 26 calls—many calls, even five to ten a day—asking for officers to come remove people from the 27 West Lane Plaza common parking lot and sidewalks. Howes Dep. at 14, Def. Ex. R, ECF No. 52. 28 Sahota made some of these calls. See Sahota Dep. at 30–31.

He asked the Police Department to 1 keep his reports and requests anonymous, as he worried the loiterers would retaliate if they found 2 out he had asked for them to be removed. See id. at 32. Officers came several times, each time 3 dispersing the people who had gathered outside Sahota’s store, but the repeated dispersals did not 4 solve the problem: when the police arrived, the loiterers would run into nearby businesses, where 5 they would stay until the officers left, then return to where they had been before the police 6 arrived.

See id. at 10–12, 14–16, 19–20, 30–31. They often ducked into a nearby laundromat, 7 where they would pretend to be washing clothes while they waited for the officers to leave. See 8 id. (explaining this sequence, describing how people would “go to the Laundromat parking lot 9 acting like they’re washing clothes,” but only “just long enough for the police department to pull 10 through”).

11 Brye was one of the people who spent time in front of Sahota’s store. See id. at 19–20, 12 32. Sahota remembers seeing him outside his store several times a week, almost every day. See 13 id. at 32. Brye denies he was in front of Sahota’s store exactly as often or as long as Sahota 14 remembers, but he does not dispute that he regularly spent time there.

See Brye Decl. ¶ 23, ECF 15 No. 53-3. 16 Brye’s legal claims relate to two calls for trespassing Sahota made in February 2021, a 17 few days after Guindon gave the trespassing enforcement letter to police. Sahota called the police 18 on the twenty-second of that month to report people had again gathered in front of his store, and 19 he asked for officers to come remove them.

See T. Inn Dep. at 18–19, Def. Ex. T, ECF No. 52; 20 Howes Decl. at 1–2, ECF No. 51-5. Officers Tela Inn and Tiffany Howes were among those who 21 responded. T. Inn Dep. at 19–22, 34–35; Howes Decl. at 1–2; Howes Dep. at 8–9. They knew 22 about the letter from the property manager, and as they understood it, the property manager had 23 given them authority to remove trespassers from the common areas.

Howes Dep. at 10–11. 24 When the officers arrived, they found Brye in the common area. T. Inn. Dep. at 22. As the 25 officers approached him, he went into the laundromat, and he refused to leave when the officers 26 spoke to him. Howes Decl. at 2. They arrested and cited him for trespassing. Brye Dep. at 22, 27 Def. Ex. Q, ECF No. 52; Howes Dep. at 34, 46. They also told

him they were acting at the 28 request of the property manager, they told him he was not welcome, they warned him he was 1 trespassing, and they said he should not return.

See Brye Dep. at 26; T. Inn Dep. at 43; Howes 2 Decl. at 3. Brye said he would be back the next day. Howes Decl. at 2. The officers warned him 3 they would arrest him again if he did come back, and not just the next day, but any day for the 4 next thirty days. Id. The officers' body cameras recorded these events. See Def. Exs. V, W, X, 5 Y, Z, AA, BB (digital video files).

Brye does not disagree about what occurred or was said on 6 this day. See Resp. Stmt. Facts Nos. 15–22. After the officers spoke to him, they took him to the 7 Stockton Police Department, issued him a citation, and released him. Howes Decl. at 2. 8 Brye came back to the shopping area the next day, as he said he would, and he parked his 9 car in the shared lot.

See Brye Dep. at 33–35. Within fifteen or twenty minutes, police officers 10 again arrived, id. at 34, this time after hearing people were “loitering out of a vehicle with the 11 intent to sell narcotics” in the common area. Brown Decl. at 2, ECF No. 51-3. Officer Anthony 12 Brown was among the officers who responded. Id. He watched Brye walk from the parking lot 13 into the laundromat.

Id. When Brown confronted Brye inside the laundromat and told him to 14 leave, Brye again refused. Id. Brown then tried to take Brye's arm and put him in handcuffs, but 15 Brye pulled away. Id. Three other officers then moved in. Id. 16 The officers' body cameras and a bystander recorded video of the ensuing struggle. See, 17 e.g., Def. Exs. CC, DD (body camera video); Def.

Ex. EE (bystander video). The videos show 18 how the officers first took Brye's arms in their hands, which he tried to hold together in front of 19 his body, ignoring the officers' instructions to relax and not to fight. See, e.g., Ex. DD at 0:50– 20 1:05.

As the officers then separated his arms, he began pulling away from them. See, e.g., Ex. 21 EE at 0:00–0:05. His footing was unsteady, and the officers pushed and pulled him to the ground. 22 See id. at 0:05–0:10. Brye argues one of the officers tripped him.

The court's careful review of 23 the video evidence leads it to the conclusion the evidence does not support that argument, but 24 Brye could rely on the video and other evidence to prove the officers took him to the ground 25 using intentional, physical force that was equivalent to tripping him.

For this reason, the court 26 finds the dispute about whether they tripped him is not material. 27 When Brye fell, he hit his head on a bench. See id. at 0:10–0:15; Brown Decl. at 2. The 28 impact drew blood from the injury to the top of Brye's head. See Def. Ex. O. Brye did not lose 1 consciousness, nor does he offer evidence of any long-term injuries or permanent harm.

See Brye 2 Decl. ¶ 14 (describing injuries). After the officers took him to the ground, they held him there by 3 putting weight on his legs and a hand on the back of his neck. See Brye Decl. ¶¶ 15–17. They 4 fastened his wrists in handcuffs, searched his pockets, gave him first aid, and called an 5 ambulance. See Brye Dep. at 42–43; Brown Decl. at 2. Nine medical “staples” were necessary to 6 close his head wound.

Brye Decl. ¶ 14. 7 After the officers arrested Brye, Sergeant Matthew Thurlow looked into the window of 8 Brye’s car, which was still parked in the shared lot at the shopping area. See Thurlow Dep. at 38, 9 Def. Ex. HH, ECF No. 52. Officer Thurlow saw what he believed to be unburned marijuana. See 10 id. Brye does not dispute there was marijuana in his car.

He describes what Thurlow saw as 11 unburned “crumbs” of marijuana strewn about the front center arm rest. Brye Decl. ¶ 21. 12 Thurlow understood local business owners had previously complained about Brye selling drugs 13 from his car, so after a discussion with the other officers, Thurlow decided there was probable 14 cause for a warrantless search. See Thurlow Dep. at 38–39.

The officers searched the car and 15 found a scale, plastic baggies, and marijuana in glass jars, including one jar that appeared to have 16 been hidden inside a stuffed animal. See Brown Decl. at 2; Brye Dep. at 54–55; Def. Ex. G, H, I, 17 ECF No. 52. 18 Brye admits the marijuana, the scale, and the baggies were his. He also admits he had 19 been smoking marijuana about thirty minutes before his arrest, see Brye Dep. at 39, 52–53, as 20 well as drinking cognac from the bottle that was mostly empty when the officers took it from his 21 pocket, see id. at 39; Def.

Ex. F. Although Brye had been smoking and drinking, the officers do 22 not now claim to have believed at the time Brye was under the influence of drugs or alcohol. 23 The district attorney’s office elected not to pursue charges against Brye. See Goff Decl. 24 Ex. B, ECF No. 53-5. A “complaint rejection notice” in the record has a checkmark next to a line 25 for “Inadmissible evidence/seizure,” followed by a handwritten explanatory note: “No court 26 restraining order on suspect to justify arrest.

No warrant or probable cause to search duffel bag. 27 (Unburnt MJ in plain sight not sufficient.)” Id. 1 Brye filed this case in February 2023. See generally Compl. ECF No. 1. His operative 2 complaint, the Second Amended Complaint, includes four claims, all under 42 U.S.C. § 1983. 3 First, he alleges the officers used excessive force in violation of the Fourth Amendment.

See 4 Second Am. Compl. ¶¶ 25–32, ECF No. 34. Second, he alleges the officers did not have 5 authority to arrest him under the terms of the Fourth Amendment, id. ¶¶ 33–43, and he alleges 6 Thurlow is liable because he was the other officers’ supervisor, because he directed them on the 7 scene, and because he did not intervene to stop the arrest, see id. ¶¶ 44–52.

Third, Brye alleges 8 the officers violated the Fourth Amendment by searching his car without a warrant, see id. ¶¶ 53– 9 56, and he again alleges Thurlow is liable because he directed the search and did not intervene to 10 stop it, see id. ¶¶ 57–65. Fourth, he alleges Howes fabricated evidence by writing a false report 11 after the arrest. See id. ¶¶ 66–69.

Finally, in addition to his claims against the individual officers, 12 Brye alleges the City of Stockton is liable because its training and supervision fell short of what 13 the Constitution requires. See id. ¶¶ 70–72. 14 As stated in the introduction, the case is before the court on defendants’ motion for 15 summary judgment. See generally Mot., ECF No. 51; Mem., ECF No. 51-1.

The court took the 16 motion under submission after receiving full briefing and a hearing on October 17, 2025. See 17 generally Opp’n, ECF No. 53; Reply, ECF No. 57; Minutes, ECF No. 63. Stanley Goff appeared 18 for Brye, and Mark Berry appeared for the defense. 19 II. DISCUSSION 20 Brye has withdrawn his claims against the City, and he has withdrawn his claims against 21 Thurlow with respect to the arrest on February 23, 2021, but not with respect to the search.

See 22 Opp’n at 15. Brye also has withdrawn his claim of fabricated evidence. See id. The court 23 therefore dismisses these claims as withdrawn. In addition, Brye does not dispute that one of the 24 defendant officers, Howes, was not on the scene of the disputed arrest and search.

The court 25 therefore grants the motion for summary judgment of the claims against Howes. Finally, 26 defendant Jimmy Inn is deceased, and no substitution was made under Rule 25(a). The court 27 therefore also grants the motion for summary judgment of the claims against him as well. Three 1 claims remain, each against Brown and Tela Inn: excessive force, unlawful arrest and unlawful 2 search.

3 For these claims, summary judgment is appropriate only if “there is no genuine dispute as 4 to any material fact and the movant is entitled to judgment as a matter of law.” Fed. R. Civ. P. 5 56(a). A dispute is “genuine” if “a reasonable jury could return a verdict for the nonmoving 6 party.” *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). A fact is “material” if it 7 “might affect the outcome of the suit under the governing law.” *Id.* The parties must cite 8 “particular parts of materials in the record.” Fed.

R. Civ. P. 56(c)(1). The court then views the 9 record in the light most favorable to the nonmoving party and draws reasonable inferences in that 10 party’s favor. *Matsushita*, 475 U.S. at 587–88; *Adickes v. S.H. Kress & Co.*, 398 U.S. 144, 157 11 (1970). 12 A. Claim 1: Excessive Force 13 Brye first claims the officers used excessive force.

The Fourth Amendment prohibits 14 officers from using excessive force to restrain a suspect. See *Torres v. Madrid*, 592 U.S. 306, 15 317–18 (2021). When a plaintiff alleges an officer’s actions

violated that prohibition, “the critical 16 question is whether the use of force was objectively reasonable.” *Est. of Hernandez by & through 17 Hernandez v. City of Los Angeles*, 139 F.4th 790, 798 (9th Cir.

2025) (en banc). “Courts must 18 carefully balance ‘the nature and quality of the intrusion on the individual’s Fourth Amendment 19 interests’ against ‘the countervailing governmental interests at stake,’ considering ‘the totality of 20 the circumstances.’” *Id.* (first quoting *Graham v. Connor*, 490 U.S. 386, 396 (1989), then 21 quoting *Plumhoff v. Rickard*, 572 U.S. 765, 774 (2014)). “The relevant considerations depend on 22 the ‘particular situation’ and the ‘particular type of force’ used, and may include ‘the severity of 23 the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or 24 others, and whether he is actively resisting arrest or attempting to evade arrest by flight.” *Id.* 25 (first quoting *Scott v. Harris*, 550 U.S. 372, 382 (2007), then quoting *Kisela v. Hughes*, 584 U.S. 26 100, 103 (2018) (per curiam)).

This question—whether the officers used reasonable or excessive 27 force—is independent from probable cause and whether the officers could make an arrest in the 28 first place. See *Beier v. City of Lewiston*, 354 F.3d 1058, 1064 (9th Cir. 2004).

For that reason, 1 the court sets aside the parties’ dispute about the officers’ legal authority and instead focuses first 2 on the reasonableness of the officers’ actions. 3 *Brye* could not prove the officers used excessive force when they arrested him. There is 4 no question about what happened when the officers confronted him in the laundromat.

The 5 confrontation was recorded by at least three cameras, and those recordings depict the incident 6 clearly. As in *Scott v. Harris*, “[t]here are no allegations or indications that [the video] was 7 doctored or altered in any way, nor any contention that what it depicts differs from what actually 8 happened.” See *Scott*, 550 U.S. at 378.

In the terms of Rule 56(a), there is no genuine dispute of 9 any material fact. This does not mean that in every instance in which there is video a case can be 10 resolved by a judge on summary judgment. “The mere existence of video footage of the incident 11 does not foreclose a genuine factual dispute as to the reasonable inferences that can be drawn 12 from that footage.” *Vos v. City of Newport Beach*, 892 F.3d 1024, 1028 (9th Cir.

2018). But if, 13 as in this case, the video is clear and undisputed, and the entirety of the incident is depicted, a 14 court can determine whether a reasonable factfinder could reach the conclusion urged by the party 15 opposing summary judgment. See *Scott*, 550 U.S. at 380 (“When opposing parties tell two 16 different stories, one of which is blatantly contradicted by the record, so that no reasonable jury 17 could believe it, a court should not adopt that version of the facts for purposes of ruling on a 18 motion for summary judgment.”).

19 Although the officers did not suspect Brye of having committed any violent or dangerous 20 crime, and although they do not argue they were justified in using force because he was drunk, 21 high or dangerous, there is no dispute but that Brye's actions justified the officers' use of some 22 type of physical response. Brye knew he was not welcome in the shopping area, both from his 23 discussion with the officers the day before and the officers' statement just before they took hold 24 of him, but he refused to leave, he ignored the officers' repeated verbal warnings and instructions, 25 and he pulled and struggled against them as they attempted to place him in handcuffs.

The force 26 the officers used was proportional to his resistance at each step: they began with a verbal 27 instruction, but he refused; they told him to relax and not to fight, but he ignored them and 28 continued struggling against them; they attempted to restrain him in handcuffs, but he held his 1 arms in front of his body and prevented it; they surrounded him and attempted to pull his arms 2 apart, but he twisted and pulled himself away from them.

The officers then brought him to the 3 ground in a scrum, which, as noted, was as forceful and intentional an effort as tripping him 4 would have been, even though the video does not show they tripped him. The video would not 5 permit Brye to prove at trial that the officers used more force than this, e.g., such as that they 6 slammed him down or threw him to the ground.

7 Perhaps with hindsight it could be argued the officers should have been more careful or 8 should have attempted to defuse the situation differently. They found themselves in rather tight 9 quarters in the laundromat between hard metal machines, benches, and doors. But the Supreme 10 Court repeatedly has instructed lower courts not to judge officers' actions "with the 20/20 vision 11 of hindsight." *Graham*, 490 U.S. at 396. "Not every push or shove" is excessive, the Court has 12 written, "even if it may later seem unnecessary in the peace of a judge's chambers." *Id.* (quoting 13 *Johnson v. Glick*, 481 F.2d 1028, 1033 (2d Cir.

1973)). Only by disregarding that binding 14 directive could this court find the officers used excessive force in this case. 15 The force the officers used to subdue Brye was, for these reasons, within the boundaries of 16 what the Constitution permits. Even if it were not, the officers would be entitled to qualified 17 immunity. "Qualified immunity attaches when an official's conduct does not violate clearly 18 established statutory or constitutional rights of which a reasonable person would have known." 19 *Kisela*, 584 U.S. at 104 (quoting *White v. Pauly*, 580 U.S. 73, 78–79 (2017) (per curiam)). "[T]he 20 focus is on whether the officer[s] had fair notice that [their] conduct was unlawful." *Id.* (quoting 21 *Brosseau v. Haugen*, 543 U.S. 194, 198 (2004) (per curiam)).

Brye cites no case that could have 22 given the officers that "fair notice," no case that clearly established the law. He relies on 23 *Tennessee v. Garner* and *Graham v. Connor* and reiterates the general rules the Supreme Court 24 described in those cases, summarized above. See Opp'n at 14–15 (citing 471 U.S. 1, 7–8 (1985) 25 and 490 U.S. at 396). A plaintiff cannot rely on such general

propositions to refute an officer's 26 assertion of qualified immunity because a district court must not define "clearly established law at 27 a high level of generality." *Kisela*, 584 U.S. at 104 (quoting *City & County of San Francisco v. 28 Sheehan*, 575 U.S. 600, 613 (2015)). "[The] inquiry 'must be undertaken in light of the specific 1 context of the case, not as a broad general proposition.'" *Rivas-Villegas v. Cortesluna*, 595 U.S. 2 1, 5–6 (2021) (quoting *Brosseau*, 543 U.S. at 198).

3 The court's own searches have returned no case standing for the proposition at the time 4 here that the officers used unconstitutionally excessive force, and in the absence of such 5 authority, the officers could not have been fairly warned about any pertinent law.

To the 6 contrary, courts have long decided that officers may take a struggling suspect to the ground if 7 their warnings and instructions go unheeded, even if they do not suspect any violent crimes or 8 fear any significant dangers, including in cases of suspected trespasses, like this one. See, e.g., 9 *Gregory v. County of Maui*, 523 F.3d 1103, 1107 (9th Cir.

2008); *Arpin v. Santa Clara Valley 10 Transp. Agency*, 261 F.3d 912, 921–22 (9th Cir. 2001); *Forrester v. City of San Diego*, 25 F.3d 11 804, 807–08 (9th Cir. 1994); *Annan-Yartey v. Honolulu Police Dep't*, No. 06-00166, 2007 WL 12 2238858, at *5 (D. Haw. July 31, 2007), *aff'd*, 351 F. App'x 243 (9th Cir. 2009) (unpublished). 13 By contrast, courts generally have found uses of force excessive only when the evidence could 14 show the officers went far beyond what was necessary to overcome the suspect's resistance, such 15 as by punching a suspect they had already wrestled to the ground and restrained.

See, e.g., 16 *Blankenhorn v. City of Orange*, 485 F.3d 463, 470, 480 (9th Cir. 2007). *Brye* has not cited or 17 pointed to evidence that shows this kind of altercation unfolded in this case. The court thus 18 grants defendants' motion for summary judgment of *Brye's* first claim of excessive force. 19 B. Claim 2: Unlawful Arrest 20 *Brye* next claims he was arrested unlawfully in violation of the Fourth Amendment.

If 21 officers arrest a person in a public place for a crime that person committed in the officers' 22 presence, the arrest violates the Fourth Amendment if it was not "supported by probable cause." 23 *Id.* at 470–71. Officers have probable cause if, at the moment of the arrest, they have "reasonably 24 trustworthy information" about "facts and circumstances" that would suffice to permit a "prudent 25 person" to believe the suspect "had committed or was committing an offense." *Id.* at 471 26 (alteration omitted) (quoting *United States v. Jensen*, 425 F.3d 698, 704 (9th Cir.

2005)). 27 Like the excessive force standard, the probable cause standard is an objective one. 28 *Edgerly v. City & County of San Francisco*, 599 F.3d 946, 954 (9th Cir. 2010). For that reason, 1

“probable cause supports an arrest so long as the arresting officers had probable cause to arrest 2 the suspect for any criminal offense,” regardless of what reason the officers actually offered.

Id. 3 But there must be probable cause under “some specific criminal statute.” Id. And officers “must 4 have probable cause for specific intent when it is a required element.” Id. at 953. 5 The officers in this case argue they had probable cause to conclude Brye was trespassing 6 in violation of the California Penal Code.

The California Penal Code punishes a variety of 7 trespasses. For example, as the officers point out, section 602(m) prohibits “[e]ntering and 8 occupying real property or structures of any kind without the consent of the owner, the owner’s 9 agent, or the person in lawful possession.” Mem. at 11 (quoting Cal. Pen. Code § 602(m)). But a 10 reasonable officer could not have had probable cause to believe Brye ran afoul of this prohibition.

11 California courts have interpreted it as punishing only “a ‘nontransient, continuous type of 12 possession.’” Edgerly, 599 F.3d at 954 (quoting *In re Catalano*, 29 Cal. 3d 1, 10 n.8 (1981)). 13 That is, section 602(m) requires the specific intent “to remain permanently, or until ousted.” Id. 14 (quoting *People v. Wilkinson*, 248 Cal. App. 2d Supp. 906, 908 (1967)); see also Judicial Council 15 of Cal., Cal. Crim.

Jury Instr. No. 2931 (2024) (defining elements). The record does not include 16 evidence that could show Brye intended to “remain permanently” in the laundromat or in the 17 common areas outside it, or that he intended to stay there until he was “ousted.” 18 The officers also cite subdivision (k) of section 602. See Mem. at 12. That subdivision 19 punishes those who enter “lands, whether unenclosed or enclosed by fence, for the purpose of 20 injuring property or property rights or with the intention of interfering with, obstructing, or 21 injuring a lawful business or occupation carried on by the owner of the land, the owner’s agent, or 22 the person in lawful possession.” Cal. Pen.

Code § 602(k). All agree Brye entered the common 23 area at West Lane Plaza. No one says this area was not “land” within the meaning of subdivision 24 (k). The probable cause question thus boils down to this: could a prudent person in the officers’ 25 position have believed Brye came to the shopping area to injure property or property rights or to 26 interfere with, obstruct or injure a lawful business?

27 The Penal Code does not define the phrases “injury to property or property rights” and 28 “interfering with, obstructing, or injuring any lawful business.” See *Blankenhorn*, 485 F.3d at 1 474. In the absence of an express statutory definition, California courts have interpreted these 2 phrases according to their “general usage” in criminal law. Id. (quoting *People v. Harris*, 191 Cal. 3 App.

2d 754, 758 n.4 (1961)). In general usage, the word “interfere” has a “well recognized, 4 defined meaning.” Id. (quoting *People v. Agnello*, 259 Cal. App. 2d 785, 791 (1968)). It means 5 “to disarrange, disturb, or hinder.” Id. (citation and quotation marks omitted). And in the context 6 of property law and property rights, federal and state courts alike have said property owners and 7 tenants have the “power” or “right” to “exclude” others from their property.

E.g., *Loretto v. 8 Teleprompter Manhattan CATV Corp.*, 458 U.S. 419, 435 (1982); *Allred v. Harris*, 14 Cal. App. 9 4th 1386, 1390 (1993). In California, this right “is a fundamental aspect of private property 10 ownership.” *Allred*, 14 Cal. App. 4th at 1390. People therefore may be acting with the specific 11 intent required by section 602(k) if they know an owner or the owner’s agent has excluded them 12 or denied them permission to enter, but they enter the property anyway and refuse to leave.

13 In one case, for example, a man asked Disneyland for permission to set up a table, pass out 14 flyers and collect signatures for an antipollution initiative in the Disneyland parking lot. See *In re 15 Ball*, 23 Cal. App. 3d 380, 385 (1972).

The park refused. See *id.* Despite that refusal, the man 16 came to the parking lot and set up his table under a monorail track next to a ticket booth a few 17 days later. See *id.* The park was forced to divert its tram, and it asked him to leave, but he 18 refused, at least until police officers arrived and issued him a citation. See *id.* at 385–86.

The 19 man later was convicted of violating section 602(k),¹ and his conviction withstood his collateral 20 attack. See *id.* at 382–83, 386–87. 21 In another case that bears a striking resemblance to this one, a security guard banned a man 22 from a shopping mall, gave him a written notice of the ban, and asked him to leave. *Blankenhorn*, 23 485 F.3d at 467–68.

He came back a month later, and was detained and arrested for trespassing. 24 See *id.* at 468–69. After no charges were filed, he pursued claims under § 1983 in federal district 25 court, alleging his arrest was unlawful. See *id.* at 467.

The district court granted the officers’ 26 summary judgment motion, and the Ninth Circuit affirmed: the officers had probable 1 At the time the language in question was found in subdivision (j). 1 cause to believe the plaintiff had violated section 602(k) even though “an actual conviction for 2 trespass might have been difficult without additional evidence.” *Id.* at 472–74.

3 These cases show a prudent person in the officers’ situation in this case could reasonably 4 have believed *Brye* was violating section 602(k). The officers knew people were regularly 5 gathering outside the liquor store and laundromat. They knew the liquor store’s owner had 6 complained of disturbances to his business, to his customers and to himself. They knew the 7 property manager had asked the Stockton Police Department to expel people who were gathering 8 in the parking lot and on the sidewalk outside the liquor store and laundromat.

They had received 9 many calls for service asking them to do just that. They knew people often dispersed into the 10 nearby businesses, including the laundromat. They knew Brye had been arrested and forced to 11 leave the day before, and they knew he was not welcome. They warned him not to return. They 12 had heard him say he would come back the next day, and he did just that.

Then they saw him in 13 the common area again the very next day. 14 It does not matter whether the officers had section 602(k) specifically in mind when they 15 arrested Brye, nor that an astute attorney might later conclude that a conviction under that section 16 would be difficult to obtain, nor that Brye was never charged with or convicted of trespassing.

17 See *Blankenhorn*, 485 F.3d at 473, 474. Probable cause is a question of what was reasonable to 18 conclude from the circumstances the officers faced and the information they had at the time of the 19 arrest, not of what statutory provision the officers had in mind, and not whether their suspicions 20 ultimately were borne out in charges and a conviction. See *Edgerly*, 599 F.3d at 954.

21 Brye argues the officers could not have had probable cause because he never received a 22 written notice from the property owner, or service of a judicial restraining order. See, e.g., *Opp'n* 23 3, 6–7. He cites no law, however, that makes a written notice or a restraining order an element of 24 an offense under section 602(k), he could identify no authority in response to the court's 25 questions at hearing, and he does not dispute that the property manager intended to bar him and 26 others from spending time in the common area outside West Lane Plaza.

The court's own 27 searches have yielded no case or statute imposing such a requirement. To the contrary, a verbal 1 or oral statement has sufficed in the past. See, e.g., *Ball*, 23 Cal. App. 3d at 385 (describing oral 2 refusal by phone). 3 Brye argues similarly that the laundromat's owner never asked him to leave the 4 laundromat in particular. See *Opp'n* at 9.

It is undisputed, however, that Brye had parked his car 5 in the common parking lot and that the officers saw him on the shared sidewalk when they 6 arrived. Nor does Brye dispute Sahota's testimony that Brye often spent time in the common 7 areas at West Lane Plaza with a group of people who used and sold drugs and harassed Sahota 8 and his customers—a group that often fled into the laundromat to avoid the officers who came to 9 expel them from the common areas at West Lane Plaza, then returned to where they had been.

10 Brye cites no case in which any court has held that officers lacked probable cause in a 11 similar situation. The court's own searches has returned cases that undermine his position. 12 California federal district courts have often found officers had probable cause to believe they had 13 witnessed a criminal trespass in similar circumstances. See, e.g., *Conta v. City of Huntington* 14 Beach, No. 21-01897, 2022 WL 18278391, at *3–4 & n.2 (C.D.

Cal. Dec. 5, 2022) (citing Cal. 15 Pen. Code §§ 602(m), (o), (s) & (t)(1)); *Daniels v. G4S Secure Sols. USA Inc.*, No. 20-283, 2021 WL 4202521, at *4 (C.D. Cal. Aug. 12, 2021) (citing Cal. Pen Code §§ 602(m) & (o)); *Close v. 17 City of Vacaville*, No. 17-01313, 2019 WL 859581, at *5 (E.D. Cal. Feb. 22, 2019) (citing Cal. 18 Pen. Code § 602(o)), *aff'd* in relevant part, 846 F. App'x 513 (9th Cir.

2021) (unpublished); 19 *Eberhard v. Cal. Hwy. Patrol*, No. 14-01910, 2015 WL 6871750, *4–5 (N.D. Cal. Nov. 9, 2015) 20 (citing Cal. Pen. Code §§ 602(k), (l) & (o)). For that reason, the officers here would be entitled to 21 qualified immunity even if there were no probable cause. See *Eberhard*, 2015 WL 6871750, at 22 *5 (granting summary judgment based on qualified immunity in similar case of suspected 23 trespass).

The court therefore grants the officers' motion for summary judgment of claim two. 24 C. Claim 3: Unlawful Search and Seizure 25 In *Brye's* third claim, he alleges the officers unlawfully searched his car in violation of the 26 Fourth Amendment.

The Fourth Amendment prohibits “unreasonable searches.” 27 “[R]easonableness generally requires the obtaining of a judicial warrant.” *Vernonia School Dist. 28 47J v. Acton*, 515 U.S. 646, 653 (1995). “In the absence of a warrant, a search is reasonable only 1 if it falls within a specific exception to the warrant requirement.” *Riley v. California*, 573 U.S. 2 373, 382 (2014).

The parties discuss a number of these exceptions in their briefing, but do not 3 always apply them distinctly and methodically, so the court begins by summarizing those 4 exceptions and their respective limits. 5 First, an exception known as the “automobile exception” allows police officers to search a 6 car even if there has been no lawful arrest in certain limited situations.

See *Collins v. Virginia*, 7 584 U.S. 586, 591–92 (2018). In the Supreme Court's decisions about what the Fourth 8 Amendment forbids, it has written that “the inherent mobility of automobiles creates 9 circumstances of such exigency that, as a practical necessity, rigorous enforcement of the warrant 10 requirement is impossible.” *South Dakota v. Opperman*, 428 U.S. 364, 367 (1976).

In addition, 11 “the expectation of privacy with respect to one's automobile is significantly less than that relating 12 to one's home or office.” *Id.* “When these justifications for the automobile exception ‘come into 13 play,’ officers may search an automobile without having obtained a warrant so long as they have 14 probable cause to do so.” *Collins*, 584 U.S. at 592 (quoting *California v. Carney*, 471 U.S. 386, 15 392–93 (1985)).

And “[i]f probable cause justifies the search of a lawfully stopped vehicle, it 16 justifies the search of every part of the vehicle and its contents that may conceal the object of the 17 search.” *Wyoming v. Houghton*, 526 U.S. 295, 301 (1999) (emphasis omitted) (quoting *United 18 States v. Ross*, 456 U.S. 798, 825 (1982)). 19 A different exception to the warrant requirement allows police officers to conduct 20 warrantless searches incident to lawful arrests.

See *Arizona v. Gant*, 556 U.S. 332, 335 (2009). 21 The search must be limited to “the space within an arrestee’s ‘immediate control,’ meaning ‘the 22 area from within which he might gain possession of a weapon or destructible evidence.’” *Id.* 23 (quoting *Chimel v. California*, 395 U.S. 752, 763 (1969)). A search under this exception may 24 include a search of a vehicle’s passenger compartment if “the arrestee is unsecured and within 25 reaching distance of the passenger compartment at the time of the search.” *Id.* at 343.

In 26 addition, “circumstances unique to the vehicle context justify a search incident to a lawful arrest 27 when it is ‘reasonable to believe evidence relevant to the crime of arrest might be found in the 28 vehicle.’” *Id.* (quoting *Thornton v. United States*, 541 U.S. 615, 632 (2004) (Scalia, J., 1 concurring in the judgment)). “In many cases, as when a recent occupant is arrested for a traffic 2 violation, there will be no reasonable basis to believe the vehicle contains relevant evidence.” *Id.* 3 “But in others... the offense of arrest will supply a basis for searching the passenger 4 compartment of an arrestee’s vehicle and any containers therein.” *Id.* 5 Next, “[i]t is well established that under certain circumstances the police may seize 6 evidence in plain view without a warrant.” *Arizona v. Hicks*, 480 U.S. 321, 326 (1987) (emphasis 7 omitted) (quoting *Coolidge v. New Hampshire*, 403 U.S. 443, 465 (1971)).

Searches, too, may be 8 permissible when the object to be searched is in the officer’s plain view. See *id.* at 327–28. But 9 this “plain view” rule cannot “extend a general exploratory search from one object to another 10 until something incriminating at last emerges.” *Id.* (quoting *Coolidge*, 403 U.S. at 466).

The 11 Supreme Court thus has imposed limits on warrantless plain-view searches and seizures. The 12 officers must of course have arrived “at the place from which the evidence could be plainly 13 viewed” without violating the Fourth Amendment, and they must have had a “lawful right of 14 access to the object itself.” *Horton v. California*, 496 U.S. 128, 136, 137 (1990).

Nor may 15 officers seize whatever objects they might see during an otherwise constitutional search. The 16 “incriminating character” of the seized item must be “‘immediately apparent.’” *Id.* (quoting 17 *Coolidge*, 403 U.S. at 466). Probable cause may also be necessary before officers can search an 18 object within their plain view.

In *Hicks*, for example, the Supreme Court held that officers could 19 check an expensive stereo system for its serial number only if they had “probable cause to believe 20 the equipment was stolen,” even though the equipment was in plain view, and even though the 21 officers were lawfully inside the apartment where they saw it. 480 U.S. at 328. 22 This plain view exception can sometimes be easy to confuse with the more basic rule that 23 “[w]hat a person knowingly exposes to the public, even in his own home or office, is not a subject 24 of Fourth Amendment protection” in the first place.

California v. Ciraolo, 476 U.S. 207, 213–25 (1986) (quoting Katz v. United States, 389 U.S. 347, 351 (1967)). The Supreme Court has held, for example, that police need no warrant to look through the garbage a person has left for collection in a public place, see California v. Greenwood, 486 U.S. 35, 41–42 (1988); to look down upon a marijuana grow or a chemical plant from an airplane flying overhead, see Ciraolo, 476 U.S. at 215; Dow Chem.

Co. v. United States, 476 U.S. 227, 238–39 (1986); or to watch a plume of smoke as it rises from a smokestack into the sky, see Air Pollution Variance Bd. of Colo. v. W. Alfalfa Corp., 416 U.S. 861, 864–65 (1974).

In these cases, the Court has “applied somewhat in reverse the principle first enunciated in Katz v. United States,” i.e., “that a Fourth Amendment search does not occur—even when the explicitly protected location of a house is concerned—unless ‘the individual manifested a subjective expectation of privacy in the object of the challenged search,’ and ‘society is willing to recognize that expectation as reasonable.’” *Kyllo v. United States*, 533 U.S. 27, 33 (2001) (emphases in original) (alterations omitted) (quoting Ciraolo, 476 U.S. at 211 and citing Katz, 389 U.S. at 347).

Returning to Brye’s car and the defendants’ decision to search it, there is no dispute but that the officers conducted a “search” in the words of the Fourth Amendment. No one contends the seized evidence—the jars of marijuana, the scale, or the baggies the officers found—were out in the open, plain for all to see. And because all agree the officers had no warrant, the search was not “reasonable” unless they identify an applicable exception to the warrant requirement.

The automobile exception is the most plausibly applicable of those the officers raise. As summarized above, that exception permits officers to “search an automobile without having obtained a warrant so long as they have probable cause to do so.” *Collins*, 584 U.S. at 592 (quoting *Carney*, 471 U.S. at 390). An officer has probable cause to search a car under this exception “when, based on the totality of the circumstances, there is ‘a fair probability that contraband or evidence of a crime will be found.’” *United States v. Williams*, 846 F.3d 303, 312–21 (quoting *Illinois v. Gates*, 462 U.S. 213, 238 (1983)).

In *Williams*, for example, the case defendants rely on in their motion, the officers had learned from their dispatcher that a man “was sleeping in his car in an unauthorized location” and that he “was known to deal drugs in the area.” *Id.* It was early in the morning when the officers approached the vehicle, and it was “a high-crime neighborhood.” *Id.* The man “popped up” when the officers came near, then ran.

Id. They chased and caught him, then arrested him for refusing to identify himself, as Nevada law required him to do. See *id.* at 311–12. They searched him incident to the arrest, see *id.* at 312, and found small packages of cocaine, each individually wrapped, along with more than

\$1,000 in small bills, see *id.* at 312–13. These circumstances made for a fair probability the officers would find more “contraband or other evidence of drug dealing” in the car from which he had just fled, so the officers could search it without first obtaining a warrant.

Id. at 313. The defendant officers in this case argue they, too, had probable cause to believe they would find evidence of drug dealing in Brye’s car, but they cite much less evidence than the officers in *Williams* had. See *Mem.* at 15. They point to three facts.

First, a caller had reported people were gathered around a car and intended to buy or sell drugs there. See *Brown Decl.* at 1. But the officers do not say who made this report, how many people the person saw, who those people were, what they looked like, what car they were gathered around, how the person knew what the people intended, or what the drugs were involved.

Second, the officers point out that when *Brown* arrived, he saw Brye walking away from the parking lot toward the laundromat. *Id.* But *Brown* does not say whether Brye appeared to be walking away from his car or any car, nor whether Brye was with anyone or was doing anything that might suggest he was buying or selling drugs.

Third, the officers cite the “crumbs” of unburned marijuana on the center console of Brye’s car. See *Brye Decl.* ¶ 21. But unlike the officers in *Williams*, the officers in this case do not claim they found drugs or any evidence related to drug trafficking when they searched Brye’s pockets. They do not claim they saw the jars or scale or baggies before they searched the car.

They cite no case in which similarly sparse evidence sufficed to give officers probable cause. To the contrary, Brye’s possession of marijuana was legal under California law and defendants cannot rely on his possession as indicative of drug dealing sufficient to support their warrantless search, at least not as a matter of California state law. See *Opp’n* at 12–13; *United States v. Stuckey*, No. 22-153, 2023 WL 3931832, at *4 (E.D.

Cal. June 9, 2023). The defendant officers provide little clarity or legal authority showing any other exception could have permitted their warrantless search. The officers cannot rely on the exception for searches incident to arrests. Brye was not near his car when he was arrested. He could not have reached it from where the officers were pinning him on the ground.

Nor have the officers given any reason to believe they were likely to find evidence related to trespassing, the crime of arrest, within Brye’s car. The exception for objects in plain view is similarly unhelpful to the officers’ defense. They do not contend they had a right to search or seize the car just because it was in “plain view,” and they could only have done so if it had some immediately apparent and incriminating character, or if there was probable cause for a search.

See *Hicks*, 480 U.S. at 328. The officers did see “crumbs” of unburned marijuana from outside the car, of course, but there is no allegation here that they searched or seized those crumbs

unlawfully. Nor were the objects 7 they seized—the jars, the scale, the baggies—in plain view. Nor do the officers discuss any of 8 the other requirements of the plain view exception, i.e., that they saw the objects from a place 9 they reached lawfully, that they had a right to access those objects, and that their incriminating 10 character was apparent.

11 The officers also assert their qualified immunity to this claim. See Mem. at 18–19; Reply 12 at 6–7. Brye correctly notes that California appellate courts have decided “the lawful possession 13 of marijuana in a vehicle does not provide probable cause to search the vehicle.” *People v. Hall*, 14 57 Cal. App. 5th 946, 948 (2020) (collecting authority); see also *Struckey*, 2023 WL 3931832, at 15 *4 (citing *Hall* and similar California cases).

He does not, however, acknowledge that this state 16 law may actually be “irrelevant to the Fourth Amendment inquiry.” *United States v. Steinman*, 17 130 F.4th 693, 714 & n.10 (9th Cir. 2025); see also *Virginia v. Moore*, 553 U.S. 164, 176 (2008) 18 (“[S]tate restrictions do not alter the Fourth Amendment’s protections.”). Of note, the Ninth 19 Circuit recently held that evidence of federal crimes, such as violations of the federal Controlled 20 Substance Act, may “be seized by state officers if that evidence is in plain view.” *Steinman*, 21 130 F.4th at 714.

22 In any event, however, Brye cites no federal decisions in any similar cases that clearly 23 established the Fourth Amendment prohibited the officers from searching his car. The law 24 instead appears to have been changing and uncertain at the time of the search, i.e., in February 25 2021. Compare, e.g., *United States v. Malik*, 963 F.3d 1014, 1015–16 & n.1 (9th Cir.

2020) (per 26 curiam) (finding officers had probable cause to search a truck after driver admitted to smoking 27 marijuana several hours before, even though state law did not criminally punish possession; 28 declining to decide whether officers had probable cause based on federal law) and *United States v. Gray*, 772 F. App’x 565, 566–67 & n.2 (9th Cir. 2019) (unpublished) (rejecting arguments 2 based on state law permitting possession of small amounts of marijuana and declining to decide 3 whether officers had probable cause based on federal law) with, e.g., *United States v. Martinez*, 4 811 F. App’x 396, 397 (9th Cir.

2020) (unpublished) (vacating denial of motion to suppress based 5 on cases decided before California voters adopted Proposition 64, “which legalized the possession 6 of 28.5 grams or less of marijuana” and declining to consider whether officers had probable cause 7 to suspect federal crime) and *United States v. Talley*, 467 F. Supp. 3d 832, 835–37 (N.D. Cal. 8 2020) (discussing conflicting cases and finding officers lacked probable cause).

This conflicting 9 precedent is not “clear enough that every reasonable official would interpret it to establish” the 10 officers in this case had no probable cause to search Brye’s car. *District of Columbia v. Wesby*, 11 583 U.S. 48, 63 (2018). 12 In sum, although genuine disputes of fact leave open the possibility that Brye could prove 13 at trial the search was unconstitutional, the officers

are entitled to qualified immunity because the 14 relevant law was unclear at the time and did not put them on notice.

For the same reason, 15 Thurlow therefore cannot be liable for any failure to supervise the other officers. The court grants 16 the motion for summary judgment of claim three in total. 17 III. CONCLUSION 18 For the reasons above, the claims for fabrication of evidence, the claim against Thurlow 19 for failure to supervise in connection with the allegedly unlawful arrest, and all claims against the 20 City of Stockton are dismissed as withdrawn.

The motion for summary judgment (ECF No. 51) 21 is otherwise granted, and the clerk's office is instructed to close the case. 22 IT IS SO ORDERED. 23 DATED: November 4, 2025.