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# Kampas v. City of St. Louis, Missouri: Eighth Circuit Upholds Qualified Immunity in Protest Arrests

By **Daigle Law Group**

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# Kampas v. City of St. Louis, Missouri: Eighth Circuit Upholds Qualified Immunity in Protest Arrests

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The United States Court of Appeals for the Eighth Circuit recently released a ruling for *Kampas v. City of St. Louis, Missouri*. This case stems from a 2017 acquittal where a former St. Louis Police Department officer was acquitted of the first-degree murder of Anthony Lamar Smith, an African American man.<sup>1</sup> This led to protests breaking out across the city from September through October. At a protest held on October 3, 2017, a group of protesters were marching on Interstate 64 at Compton Avenue and were heading eastbound towards Jefferson Avenue. Officer Kenneth Kegel was notified of the protest and informed that they were blocking the highway traffic. Scott Kampas and Steven Hoffmann attended the protest as observers to document police conduct and collect evidence for any future litigation. Kampas and Hoffman did not travel with the group on the interstate, and no officer observed them on the interstate. Instead, they stood in the grassy area at the base of the off-ramp while the protesters blocked traffic. The protesters walked until they reached an off-ramp where they exited the highway. Before exiting, the protesters surrounded Kampas and Hoffman at the bottom of the off-ramp. The protesters stayed there for about a minute, and some walked around the grassy area where Kampas and Hoffman stood. When the protesters walked up the off-ramp, Kampas and Hoffman walked on the grassy area next to the off-ramp. Eventually, the protesters, Kampas, and Hoffman turned and left as a single group. The St. Louis Police Chief directed Officer Kegel to arrest those who had trespassed onto I-64. On Jefferson Avenue, officers encircled the group and physically prevented anyone from entering or leaving the area. Kampas and Hoffman were part of the group that had been encircled. They informed several officers that they had not been on the highway, requested to leave, and were denied. Both Kampas and Hoffman were transported, processed, and booked. As Hoffman was getting booked, he tried to reiterate that he was not on the highway and did not attend the protest.

## **Procedural Posture**

Kampas and Hoffman filed a lawsuit against under 42 U.S.C. §1983 for the violation of their First and Fourth Amendment rights. The officers and City filed a motion to dismiss all claims and moved for summary judgment. The district court ultimately granted the motion for summary judgment, finding the officers entitled to qualified immunity, and Kampas and Hoffman appealed.

## **United States Court of Appeals for the Eighth Circuit**

On appeal to the Eighth Circuit, the Court affirmed the district court's grant of summary judgment to the officers, finding that they were entitled to qualified immunity. The court first reviewed whether the officers were entitled to qualified immunity under their Fourth Amendment claims. Qualified immunity shields government officials from civil lawsuits unless they violate "clearly established" constitutional rights that any reasonable officer would know at the time of the incident. Kampas and Hoffman reasserted that they were unlawfully seized and that the officers did not have actual or arguable probable cause to arrest them; therefore, their arrests were an unlawful violation of the Fourth Amendment. In evaluating this claim, the Eighth Circuit cited its precedent in *Borgman v. Kedley*, which held that the Fourth Amendment does not bar a warrantless arrest so long as it is supported by probable cause.<sup>2</sup> *Borgman* also held that an officer would be entitled to qualified immunity if there is "at least 'arguable probable cause'."<sup>3</sup>

Arguable probable cause exists when an officer arrests someone under a mistaken belief that probable cause is present. However, the mistake must be objectively reasonable for an officer "to conclude that the arrest was supported by probable cause." Arguable cause is considered while examining whether officers violated a clearly established right. The court turned to their precedent in *Bernini v. City of St. Paul*, 665 F.3d 997 (8th Cir. 2012). In *Bernini*, a mass arrest occurred during protests at the 2008 Republican National Convention. After officers closed an area, a group of approximately 100 people remained. After it grew to about 400 people, officers surrounded the group and informed everyone that they were under arrest. 160 people were arrested, including 9 people who were not present at the protest.<sup>4</sup> The court acknowledged the challenge faced by officers responsible for managing such a large group activity. Specifically, it would be practically impossible for officers to verify that each person in the crowd engaged in a specific riotous act in any situation involving a large protest or riot. Thus, the court upheld the arrest of the 160 people, including the 9 people who did not violate the law, since it was an objectively reasonable exercise of police conduct.<sup>5</sup>

Here, all the protesters entered the highway together and eventually gathered at the base of the off-ramp before exiting the highway and going to Jefferson Avenue together. Kampas and Hoffman were both surrounded by the protesters at the base of the off-ramp and both traveled to Jefferson Avenue with the protesters. Neither Kampas nor Hoffman tried to separate themselves from the group. Additionally, Hoffman was in the middle of the group when they were surrounded. While Kampas was not seen with the group on Jefferson Avenue, he was seen on the off-ramp with them.

Thus, the court found that it was objectively reasonable for the officers to conclude that the marching protesters acted together and that Kampas and Hoffman were part of the protesters. The court concluded that the officers had at least arguable probable cause to arrest both Kampas and Hoffman

since it would have been practically impossible for the officers to determine actual probable cause. Ultimately, the court concluded that it was not clearly established that Kampas and Hoffman had the right to be free from unlawful seizure and accordingly affirmed the district court's grant of qualified immunity regarding the Fourth Amendment claims.

The court then addressed Kampas and Hoffman's *Monell* claims for retaliatory arrest in violation of the First Amendment. To prevail on their First Amendment retaliation claim, Kampas and Hoffman had to demonstrate: (1) they engaged in a protected First Amendment activity, (2) the officer took adverse action that would deter a reasonable person from continuing in the protected activity, (3) that the adverse action was motivated at least in part by the plaintiff's protected conduct, and (4) the officer lacked actual or arguable probable cause.<sup>6</sup> The court reiterated that it had already been concluded that the officers had arguable probable cause on the Fourth Amendment claims. Therefore, the arguable probable cause for their arrests also meant that their right to be free from retaliatory arrest was not clearly established either. Thus, the Eighth Circuit accordingly affirmed the grant of qualified immunity to the officers regarding the First Amendment claims.

## Key Takeaways

*Kampas* emphasizes that strong policies and consistent, well-documented training are critical to avoiding municipal liability, especially *Monell*. To avoid deliberate indifference, agencies must proactively identify risk areas and address them with meaningful instruction and oversight. It is crucial to ensure that training content is accurate, current, and focused on recurring, high-risk situations, including crowd control and management. Outdated, superficial training that is inconsistent with legal standards can be used as evidence that the department failed to prepare officers for foreseeable situations and acted with deliberate indifference. While comprehensive written policies are important, they are not enough. Training instructors must translate policies into practical skills through realistic, scenario-based training that mirrors the pressures officers face in the field.

Lastly, agencies should treat training as an ongoing process rather than a one-time requirement. Legal standards and best practices in policing evolve, so refresher courses, legal updates, and updated training are necessary. Through ongoing, continuous training and strong supervision, agencies can better protect the public, support their officers, and reduce exposure to costly civil liability.

1. Bill Chappell, *Former St. Louis Police Officer Is Acquitted Of Murder In Anthony Lamar Smith Case*, NPR, Sept. 15, 2017, <https://www.npr.org/sections/thetwo-way/2017/09/15/551228046/former-st-louis-police-officer-is-acquitted-of-murder-in-anthony-lamar-smith-cas>. ↵
2. *Borgman v. Kedley*, 646 F.3d 518, 522-23 (8th Cir. 2011). ↵

3. *Id.* ↵

4. *Bernini*, 655 F.3d at 1001-1002. ↵

5. *Id.* at 1003. ↵

6. *Just v. City of St. Louis*, 7 F.4th 761, 768 (8th Cir. 2021). ↵

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