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File Name: 26a0304p.06

UNITED STATES COURT OF APPEALS

FOR THE SIXTH CIRCUIT

JOHN DOES, A–G55, on behalf of themselves and all others similarly situated,

Plaintiffs-Appellants,

JANE DOES, A–G55, on behalf of themselves and all others similarly situated,

Plaintiffs,

v.

MICHIGAN STATE POLICE et al.,

Defendants,

GRETCHEN WHITMER, Governor; BRIAN SHIPMAN; ANTHONY E. KING; TIMOTHY S. FLANAGAN; JAMES GRADY, II; AARON DUNGY; CYNTHIA GARCIA-WEAKLEY; PAULA JOHNSON; CRISSA BLANKENBURG; CAITLIN MCGINN; COLIN RIEHL,

Defendants-Appellees.

No. 25-1415

Appeal from the United States District Court for the Eastern District of Michigan at Detroit.
No. 2:21-cv-12843—Mark A. Goldsmith, District Judge.

Argued: July 21, 2026

Decided and Filed: November 13, 2026

Before: MOORE, NALBANDIAN, and MATHIS, Circuit Judges.

COUNSEL

ARGUED: Paul Matouka, OLIVER BELL GROUP, Troy, Michigan, for Appellants. Eric M. Jamison, OFFICE OF THE MICHIGAN ATTORNEY GENERAL, Lansing, Michigan, for Appellees. **ON BRIEF:** Paul Matouka, OLIVER BELL GROUP, Troy, Michigan, for

Appellants. Eric M. Jamison, OFFICE OF THE MICHIGAN ATTORNEY GENERAL, Lansing, Michigan, for Appellees.

OPINION

KAREN NELSON MOORE, Circuit Judge. The plaintiffs are individuals who must register and report certain information under Michigan's Sex Offender Registration Act ("SORA"). SORA requires the plaintiffs to report in person between one and four times annually, depending on their classification, and also to report when they experience certain life changes, such as moving to a new home or starting a new job. As relevant here, the plaintiffs sued various Michigan officials alleging that SORA's in-person-reporting requirements seize them in violation of the Fourth Amendment. The district court dismissed the complaint, and the plaintiffs appealed. Because SORA's in-person-reporting requirements are not seizures under the Fourth Amendment, we **AFFIRM**.

I. BACKGROUND

The plaintiffs "have [all] been convicted for listed offenses" that require, or will require, them to register as sex offenders under SORA. R. 30 (Am. Compl. ¶ 10) (Page ID #113). The plaintiffs challenge SORA's mandate that they comply with three in-person-reporting requirements. *Id.* ¶ 73 (Page ID #127).[1] First, upon release from custody, registrants must initially register as sex offenders, which sometimes requires reporting in-person to a "registering authority." *See, e.g.*, Mich. Comp. Laws Ann. § 28.725a. SORA defines "registering authority" as the "local law enforcement agency or sheriff's office having jurisdiction over the individual's residence, place of employment, or institution of higher learning, or the nearest [Michigan State Police Department] post designated to receive or enter sex offender registration information within a registration jurisdiction." *Id.* § 28.722(m).

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[1]The plaintiffs challenge only these three in-person-reporting requirements. *See* Appellants Br. at 2–22; Reply Br. at 2; R. 30 (Am. Compl. ¶¶ 129–54) (Page ID #171–75). They do not discuss or challenge any of SORA's other reporting requirements, for which the state can "prescribe" the "manner" of reporting. *See, e.g.*, Mich. Comp. Laws Ann. § 28.725(2). Nor do the plaintiffs challenge any other aspects of the SORA scheme in their Fourth Amendment claim.

Second, registrants must report in person to a registering authority between one and four times annually, depending on their tier classification, which we refer to as the tier-based requirements. *Id.* § 28.725a(3). Registrants are assigned a tier classification based on their offense of conviction, and most are required to pay a $50 annual fee for ten years. *Id.* §§ 28.722(q)–(u), 28.725a(6). Tier I offenders must "report [in person] once each year during the individual's month of birth." *Id.* § 28.725a(3)(a). Tier II offenders must "report [in person] twice each year" within their assigned months. *Id.* § 28.725a(3)(b). Tier III offenders must "report [in person] 4 times each year" within their assigned months. *Id.* § 28.725a(3)(c). Registrants can report on any day within the assigned month. *Id.* § 28.725a(4). But, practically speaking, a registrant's ability to report can be limited by a registering authority's days and hours of operation. *See* R. 30 (Am. Compl. ¶ 104(c)) (Page ID #139–40).

Third, SORA requires registrants to report in person to a registering authority within three business days of certain life events, such as when they change their residence or domicile within the state, their employment, their education status, or their name. Mich. Comp. Laws Ann. § 28.725(1). We refer to these as the circumstance-based requirements. Under § 28.725(1), the government can "prescribe[]" "another manner" for reporting that is not in person, but the plaintiffs allege that they must appear in person to comply with this requirement. *Id.* § 28.725(1); R. 30 (Am. Compl. ¶ 136) (Page ID #172). And registrants must also report in person to a registering authority *before* certain events: not more than three business days before changing their domicile or residence to another state, and at least 21 days before changing their domicile or residence to another country or traveling to another country for more than seven days. Mich. Comp. Laws Ann. § 28.725(7), (8).

Willful failure to comply with SORA's reporting requirements is punishable as a felony or a misdemeanor. *See id.* § 28.729(1)–(2). SORA does not prevent registrants from traveling or moving, and registrants are not required to get prior authorization to do so. *See id.* § 28.725(2)(b), (8).

The plaintiffs sued Governor Gretchen Whitmer and various other Michigan officials, alleging that the in-person-reporting requirements violated the Fourth Amendment. R. 30

(Am. Compl. ¶¶ 18–29, 154) (Page ID #116–17, 175).[2] The defendants moved to dismiss, arguing that *Willman v. Attorney General of United States*, 972 F.3d 819, 826 (6th Cir. 2020), was controlling and compelled the district court to hold that the plaintiffs are not seized by SORA's reporting requirements. R. 47 (Mot. to Dismiss at 4–5) (Page ID #320–21). The district court agreed and dismissed the complaint. R. 54 (Op. & Order at 4–6) (Page ID #496–98). The plaintiffs timely appealed. R. 72 (Notice of Appeal) (Page ID #527).

II. ANALYSIS

"We review de novo a district court's decision to dismiss a complaint under Rule 12(b)(6)." *Willman*, 972 F.3d at 822 (quoting *Swanigan v. FCA US LLC*, 938 F.3d 779, 783 (6th Cir. 2019)). Courts must deny a motion to dismiss if the complaint "present[s] facts that, if accepted as true, sufficiently 'state a claim to relief that is plausible on its face.'" *Coley v. Lucas County*, 799 F.3d 530, 537 (6th Cir. 2015) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). "A claim is facially plausible when a plaintiff 'pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.'" *Id.* (quoting *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)). "We construe the [p]laintiffs' complaint in the light most favorable to them, and accept the complaint's allegations as true, drawing all reasonable inferences in" their favor. *Id.* We first address the plaintiffs' argument that *Willman* does not control and then turn to whether the plaintiffs are seized under the Fourth Amendment.

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"[A] prior published opinion binds our panel 'unless an inconsistent decision of the United States Supreme Court requires modification' of our opinion, the en banc court overrules it, or it conflicts with an even earlier case." *Laborers' Int'l Union of N. Am., Loc. 860 v. Neff*, 29 F.4th 325, 334 (6th Cir. 2022) (quoting *Darrah v. City of Oak Park*, 255 F.3d 301, 309–10 (6th

[2]The plaintiffs also asserted claims under the Ex Post Facto Clause, the Due Process Clause, the Equal Protection Clause, and the First Amendment. R. 30 (Am. Compl. ¶¶ 41, 87, 96, 105) (Page ID #155, 164–65, 167). Those claims were resolved in a related case, *John Does v. Gretchen Whitmer*, No. 2:22-cv-10209 (E.D. Mich.), so they are not before us in this case. R. 38 (Scheduling Order at 2) (Page ID #286); Appellants Br. at 3; Appellees Br. at 5.

Cir. 2001)).[3] In *Willman*, the plaintiff argued that the federal Sex Offender Registration and Notification Act's ("SORNA") reporting requirements seized him in violation of the Fourth Amendment. 972 F.3d at 826. We rejected that argument and held that SORNA's reporting requirements did not render the plaintiff seized because the requirements did "not prohibit [him] from exercising his liberty to go to different places" or "even require him to obtain permission" before doing so. *Id.*

The plaintiffs argue that *Willman* is not controlling for two main reasons. First, they highlight that *Willman* addressed SORNA, nor SORA. Appellants Br. at 6–7. Second, they contend that *Willman* decided a question that is not before us—whether SORNA's reporting requirements resulted in a "continuous seizure" based on Justice Ginsburg's concurrence in *Albright v. Oliver*, 510 U.S. 266 (1994). *Id.* at 8–11. By contrast, here the plaintiffs challenge the "specific and discrete seizures" that occur "at the moment they appear [in person] in submission to the statute," emphatically disclaiming any reliance on a continuous-seizure theory. *Id.* Ultimately, we need not decide whether *Willman* was limited to a continuous-seizure theory—and, therefore, not controlling here—because we independently conclude that SORA's reporting requirements do not render the plaintiffs seized. *See Torres v. Madrid*, 592 U.S. 306, 312 (2021).

* * *

The Fourth Amendment prohibits unreasonable seizures. *Taylor v. City of Saginaw*, 11 F.4th 483, 487 (6th Cir. 2021). "To determine whether a Fourth Amendment violation has occurred, we ask two primary questions: first, whether the alleged government conduct constitutes a [seizure] within the meaning of the Fourth Amendment; and second, whether the [seizure] was reasonable." *Id.* (quoting *Taylor v. City of Saginaw*, 922 F.3d 328, 332 (6th Cir. 2019)). Only the first question is before us here. *See* Appellants Br. at 22. As relevant here, a person is seized "when a government official . . . applies . . . a show of authority that has in some way restrained the liberty of the person." *Willman*, 972 F.3d at 826 (citation modified); *see also*

[3]This rule prevents us from reconsidering *Willman*, as the plaintiffs request. Appellants Br. at 11–16.

Torres, 592 U.S. at 322.[4] There is a sufficient show of authority "if 'in view of all of the circumstances surrounding the incident, a reasonable person would have believed that [they were] not free to leave.'" *Campbell v. Cheatham Cnty. Sheriff's Dep't*, 47 F.4th 468, 476–77 (6th Cir. 2022) (quoting *Brendlin v. California*, 551 U.S. 249, 255 (2007)). "Examples of circumstances that" can qualify as a show of authority include "the threatening presence of several officers, the display of a weapon by an officer, some physical touching of the person of the citizen, or the use of language or tone of voice indicating that compliance with the officer's request might be compelled." *United States v. Mendenhall*, 446 U.S. 544, 554 (1980) (opinion of Stewart, J.). A person's liberty is restrained when they "voluntar[ily] submi[t] to a show of authority or" their "freedom of movement" is "terminat[ed]." *Campbell*, 47 F.4th at 476 (quoting *Torres*, 592 U.S. at 322). These inquiries are objective, not subjective. *Id.* at 477 n.3.

The plaintiffs contend that they are seized when they appear to report in person. Appellants Br. at 4, 11, 20–22. They argue that the threat of criminal liability if they fail to report is a show of authority because "[n]o reasonable person would believe that they were free to ignore the requirement." *Id.* at 21. And, the argument goes, their liberty is restrained "at the moment they appear" to report in submission to that show of authority because "they [would be] doing things other than waiting at a police station or giving answers to law enforcement questions pursuant to SORA." *Id.* at 10, 22.

There is a dearth of caselaw on whether sex-offender-registry-reporting requirements seize registrants. Putting *Willman* aside, we have never addressed the question and neither have our sibling circuits.[5] There is, however, analogous caselaw for us to draw upon. The first helpful case is *United States v. Dionisio*, 410 U.S. 1, 9 (1973), where the Supreme Court held

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[4]A seizure also occurs "when a government official . . . 'applies physical force to restrain' the person." *Willman*, 972 F.3d at 826 (quoting *United States v. Jeter*, 721 F.3d 746, 751–52 (6th Cir. 2013)). The plaintiffs do not rely on this seizure theory.

[5]The most on-point case we have identified is *Doe v. Cuomo*, 755 F.3d 105, 115 (2d Cir. 2014), where the Second Circuit assumed without deciding that the reporting requirements in New York's sex-offender-registry statute seized the plaintiffs. The court took that path because it determined that any such seizure was reasonable because the reporting requirements "serve[d] special needs—such as the protection of potential future victims and the solving of crimes in the future" and "the degree of intrusion on convicted sex offenders [was] reasonable in relation to the interests advanced by SORA." *Id.* The parties here have not briefed the reasonableness issue, so it is not before us. Appellants Br. at 22.

"that a subpoena to appear before a grand jury is not a 'seizure' in the Fourth Amendment sense, even though that summons may be inconvenient or burdensome." To support this holding, the Court discussed how there is a historically grounded "civic obligation" to appear before a grand jury. *Id.* at 9–10. And the Court explained that "[t]he compulsion exerted by a grand jury subpoena differs from the seizure effected by an arrest or even an investigative 'stop'" because an arrest or stop "is abrupt, is effected with force or the threat of it and often in demeaning circumstances, and, in the case of arrest, results in a record involving social stigma." *Id.* at 10 (quoting *United States v. Doe*, 457 F.2d 895, 898 (2d Cir. 1972)). By contrast, "[a] subpoena is served in the same manner as other legal process; it involves no stigma whatever; if the time for appearance is inconvenient, this can generally be altered; and it remains at all times under the control and supervision of a court." *Id.* (quoting *Doe*, 457 F.2d at 898).

Like a grand jury subpoena, SORA's in-person-reporting requirements are not "abrupt" or "effected with force or the threat of it." *Id.* (quoting *Doe*, 457 F.2d at 898). And even though being on the SORA registry certainly is stigmatizing, *see Hart v. Hillsdale County*, 973 F.3d 627, 644 (6th Cir. 2020), the in-person reporting itself does not "result in" that stigma. Instead, the stigma stems from being on the registry in the first place and being required to report at all—not from the in-person aspect of the reporting. *See Smith v. Doe*, 538 U.S. 84, 98 (2003). Therefore, the in-person reporting that the plaintiffs challenge does not "result in" stigma, just like a grand jury subpoena.

Despite these similarities, there are some important differences between a grand jury subpoena and SORA's reporting requirements. The reporting requirements are not served via typical legal process or directly supervised by a court, unlike a grand jury subpoena. Additionally, even though SORA's in-person-reporting requirements do not "result in" stigma, they still do "involve[] social stigma," *Dionisio*, 410 U.S. at 10 (quoting *Doe*, 457 F.2d at 898), because they are an aspect of a scheme that is inherently stigmatizing, *see Hart*, 973 F.3d at 644. Perhaps those differences are significant enough that *Dionisio* alone would not be sufficient to show that the in-person-reporting requirements do not seize the plaintiffs. Nevertheless, the Court's emphasis on the differences between a traditional arrest and being required to appear in person for a proceeding is instructive.

To distinguish *Dionisio*, the plaintiffs argue that having to appear for court proceedings or before a grand jury aren't seizures in the Fourth Amendment sense because they are contemplated by the Constitution, as opposed to sex-offender registries. Oral Arg. Tr. at 4:05–7:20. The "historically grounded obligation of every person to appear and give his evidence before the grand jury" is, indeed, contemplated by the Constitution. *Dionisio*, 410 U.S. at 9–10; *see* U.S. Const. amend. V. But the plaintiffs' argument, even though it has a certain surface-level logic, draws on a distinction that *Dionisio* didn't identify or rely on—that is, whether the obligation is contemplated by the Constitution. *See Dionisio*, 410 U.S. at 9–10. Moreover, the argument accounts for only part of *Dionisio*'s reasoning. *Dionisio* also distinguished grand jury subpoenas from seizures based on how seizures are often marked by abruptness, force or threat of force, or stigma. *Id.* at 10. And, as we describe above, SORA's in-person-reporting requirements are distinguishable.

Our malicious-prosecution precedent fills any gaps that *Dionisio* leaves. To state a malicious-prosecution claim, a plaintiff must show that, "as a consequence of a legal proceeding," they "suffered a deprivation of liberty apart from the initial seizure." *Adams v. Lexington-Fayette Urb. Cnty. Gov't*, 154 F.4th 501, 508 (6th Cir. 2025) (quoting *Wright v. City of Euclid*, 962 F.3d 852, 875–76 (6th Cir. 2020)). "Malicious prosecution claims are jurisprudentially about seizure of the plaintiff before the trial" and rooted in the Fourth Amendment. *Id.* at 509. To determine if the plaintiff suffered a deprivation of liberty, we ask whether the plaintiff's freedom of movement following legal process was restricted in a way "akin to a seizure of the plaintiff's person." *Id.* (citation modified); *see also Chiaverini v. City of Napoleon*, 602 U.S. 556, 562 (2024) ("The constitutional violation alleged in such a suit is a type of unreasonable seizure—an arrest and detention of a person based on a criminal charge lacking probable cause."); *Thompson v. Clark*, 596 U.S. 36, 43 n.2 (2022) ("Because [a malicious-prosecution] claim is housed in the Fourth Amendment, the plaintiff also has to prove that the malicious prosecution resulted in a seizure of the plaintiff."). That is similar to asking whether "a show of authority has in some way restrained the liberty of [the plaintiff]," *Willman*, 972 F.3d at 826 (citation modified), so we can draw on malicious-prosecution cases here.

We have held that being required to appear in court, without more, is not a Fourth Amendment seizure. *DePiero v. City of Macedonia*, 180 F.3d 770, 774, 789 (6th Cir. 1999) (holding that the plaintiff was not seized when he was required to "appear in court" at a specific date and time and warned that failure to appear at that "time and place" may result in "arrest[]"); *Adams*, 154 F.4th at 508 ("Being arraigned or summoned to testify in court . . . does not create a deprivation of liberty. Instead, something more is required, and this circuit has held that service with a summons to appear at trial or some other court proceeding does not rise to the level of a constitutional deprivation." (citation modified)). Many of our sibling circuits have reached the same conclusion. *See United States v. Ley*, 876 F.3d 103, 108 (3d Cir. 2017); *Alexander v. McKinney*, 692 F.3d 553, 557 n.2 (7th Cir. 2012); *Burg v. Gosselin*, 591 F.3d 95, 98 (2d Cir. 2010); *Martinez v. Carr*, 479 F.3d 1292, 1298–99 (10th Cir. 2007); *Britton v. Maloney*, 196 F.3d 24, 29–30 (1st Cir. 1999); *Ryu v. Whitten*, 684 F. App'x 308, 311 (4th Cir. 2017) (per curiam).

Based on the plaintiffs' framing of the Fourth Amendment question here, being required to appear in court and being required to report in person are analogous for purposes of determining whether they are seized. Like the reporting requirements, being compelled to appear in court requires people to go somewhere in person they otherwise would not. If a person fails to appear in court, they could be arrested and incarcerated and are subject to the court's contempt powers. *See, e.g.*, *DePiero*, 180 F.3d at 774, 789; *Britton*, 196 F.3d at 29–30; *Ryu*, 684 F. App'x at 311. Therefore, a court summons shares the central components of SORA's reporting requirements that the plaintiffs argue render them seized: being compelled to appear in person by the threat of criminal sanction if one fails to do so.

And, if anything, the reporting requirements restrain the plaintiffs' liberty less than being required to appear in court. Unlike a court hearing with a set date and time, the plaintiffs can elect when to appear to report within the allotted period. For the tier-based reporting, the plaintiffs can select which day of the month to report. And for the strictest circumstance-based reporting requirements, the plaintiffs can still choose one of three days to report. This allows the plaintiffs to exercise a greater degree of agency and flexibility than appearing in court at a

specific time does.[6] That flexibility would make a reasonable person believe that they are free to come and go to a greater degree than if they were required to attend court at a specified time. *Cf. Campbell*, 47 F.4th at 476–77. Additionally, the plaintiffs do not argue that once they appear in person to report they cannot terminate the encounter. For example, if a plaintiff remembers that they have a doctor's appointment after they arrive to report, they could leave, attend the appointment, and return to report later.[7] This suggests that a reasonable person would "feel free to . . . terminate the encounter" in a way that they would not when required to appear in court. *United States v. Drayton*, 536 U.S. 194, 202 (2002) (quoting *Florida v. Bostick*, 501 U.S. 429, 436 (1991)).[8] Therefore, we hold that SORA's in-person-reporting requirements do not render the plaintiffs seized under the Fourth Amendment.

We conclude by emphasizing the limits of our holding. First, if SORA subjected the plaintiffs to restrictions on their liberty in addition to the reporting requirements, they might be seized under the Fourth Amendment. As we and our sibling circuits have held, being required to appear in court coupled with other restrictions following release from an arrest, such as not being allowed to leave the state, can amount to a Fourth Amendment seizure. *Miller v. Maddox*, 866 F.3d 386, 393 (6th Cir. 2017); *Johnson v. City of Cincinnati*, 310 F.3d 484, 492–93 (6th Cir. 2002); *Evans v. Ball*, 168 F.3d 856, 860–61 (5th Cir. 1999), *overruled on other grounds by Castellano v. Fragozo*, 352 F.3d 939 (5th Cir. 2003) (en banc); *Gallo v. City of Philadelphia*, 161 F.3d 217, 222 (3d Cir. 1998); *Murphy v. Lynn*, 118 F.3d 938, 946 (2d Cir. 1997); *Elfar v. Township of Holmdel*, No. 24-1353, 2025 WL 671112, at *4 (3d Cir. Mar. 3, 2025).

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[6]This is not meant to imply that the requirements are not "direct restraints on personal conduct." *Does #1-5 v. Snyder*, 834 F.3d 696, 703 (6th Cir. 2016). Instead, we merely draw a comparison between the reporting requirements and appearing in court.

[7]Clearly, the length of time a person is detained is not determinative of whether they were seized because even brief stops can be seizures. *United States v. Copeland*, 321 F.3d 582, 592 (6th Cir. 2003). We highlight this merely to demonstrate that the plaintiffs have some freedom to decide when to report.

[8]John Doe E alleges that "sometimes there is only a single day in a week when he can register during a two-hour window." Appellants Br. at 20. But that does not transform the reporting requirements into a seizure because one must appear in court at a specific date and time—yet we have held that being required to do so is not a seizure.

Second, the plaintiffs emphatically disclaim reliance on a continuing-seizure theory. Instead, they repeatedly emphasize that they challenge the "specific and discrete seizures" that occur only "at the moment they appear [to report] in submission" to the "threat of criminal prosecution," not "the amorphous concept of a continuous seizure." Appellants Br. at 8–11. Therefore, we do not weigh in on the validity of the continuous-seizure theory. *See Cummin v. North*, 731 F. App'x 465, 471 (6th Cir. 2018) ("We . . . have not decided whether to adopt the 'continuing seizure' doctrine."). The plaintiffs' focus on discrete "seizures" that occur only at the moment they appear to report also means that we have no reason to consider the impact on the seizure analysis of having to report in person multiple times a year.

III. CONCLUSION

For the foregoing reasons, we hold that SORA's in-person-reporting requirements do not render the plaintiffs seized under the Fourth Amendment. We **AFFIRM**.