

April 9, 2004

Charles R. Fulbruge III
Clerk

In the
United States Court of Appeals
for the Fifth Circuit

m 03-60191

LEROY MITCHELL, JR.,

Plaintiff-Appellee,

VERSUS

CITY OF GULFPORT, MISSISSIPPI, ET AL.,

Defendants,

CITY OF GULFPORT, MISSISSIPPI; MARK PEDUZZI; TODD WALLIS,

Defendants-Appellants.

Appeal from the United States District Court
for the Southern District of Mississippi
m 1:01-CV-449-GR

Before GARWOOD, HIGGINBOTHAM, and
SMITH, Circuit Judges.

PER CURIAM:*

The district court did not abuse its discretion in considering the transcript of the criminal proceeding, which transcript bears sufficient indicia of reliability. In light of that transcript, the district court determined that there are genuine issues of disputed material fact. Accordingly, we have no jurisdiction to review the claim of excessive force. *Johnson v. Jones*, 515 U.S. 304, 317 (1995).

The appeal is DISMISSED for want of jurisdiction. Appellants' motion to supplement the record is GRANTED. We express no opinion on the merits of any claim.

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.