

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 14-11250

United States Court of Appeals
Fifth Circuit

FILED

September 3, 2015

Lyle W. Cayce
Clerk

MICHAEL L. MALONE,

Plaintiff - Appellee

v.

ADRIAN W. TIDWELL, F.W.P.D. Officer, K-9 Officer; OFFICER JUSTIN L. STROUD, F.W.P.D, West Field Operations; OFFICER JOHN T. DAVIS, F.W.P.D., West Field Operations; JAMES S. FIELDS, F.W.P.D., West Field Operations; OFFICER JASON L. GIPSON; NATHAN S. LEHMAN, ID# 3727,

Defendants - Appellants

Appeals from the United States District Court
for the Northern District of Texas
USDC No. 4:09-CV-634

Before KING, DENNIS, and OWEN, Circuit Judges.

PER CURIAM:*

In our earlier opinion, we cited Fifth Circuit Rule 47.6 and affirmed the district court's judgment. We withdraw that opinion and substitute the following:

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

No. 14-11250

Defendants-Appellants Adrian Tidwell, John Davis, James Fields, Jason Gipson, Justin Stroud, and Nathan Lehman appeal the district court's denial of their motions for summary judgment. After hearing oral arguments and considering the record and the briefs, we conclude that the district court did not err in denying summary judgment and we therefore DISMISS this appeal for lack of jurisdiction.