

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 02-30116
Summary Calendar

ANGEL MAYAN,

Plaintiff-Appellant,

versus

MIKE BROUSSARD; SHERIFFS DEPARTMENT VERMILION PARISH;
RAY LEMAIRE, Sheriff; PAUL TRAHAN, Warden,

Defendants-Appellees.

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 00-CV-1340

November 5, 2002

Before JONES, STEWART, and DENNIS, Circuit Judges.

PER CURIAM:*

Angel Mayan appeals the district court's grant of summary judgment to all defendants in this 42 U.S.C. § 1983 civil rights suit. This court reviews a district court's grant of summary judgment de novo. Threadgill v. Prudential Sec. Group, Inc., 145 F.3d 286, 292 (5th Cir. 1998). Summary judgment is appropriate if the record discloses "that there is no genuine issue as to any

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

material fact and the moving party is entitled to a judgment as a matter of law." FED. R. CIV. P. 56(c).

Mayan first argues that the district court erred in granting summary judgment on his excessive force claim to defendant Captain Michael Broussard. To survive summary judgment Mayan must raise a genuine issue of material fact that: (1) he was injured; (2) that Captain Broussard's actions were grossly disproportionate to the need for action under the circumstances; and (3) that malice, rather than carelessness or zeal, was the motivating factor behind Broussard's actions. Petta v. Rivera, 143 F.3d 895, 902 (5th Cir. 1998). As he has failed to do so, the district court's grant of summary judgment on the excessive force claim is AFFIRMED.

Mayan next argues that the district court erred in granting the motion for summary judgment on his due-process claim against defendant Warden Paul Trahan. Because Mayan has failed to introduce evidence sufficient to create a genuine issue of material fact as to this claim, this judgment of the district court is also AFFIRMED.

AFFIRMED.