

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 92-7341  
Conference Calendar

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SANDRA ELLIS, ET AL.,

Plaintiffs-Appellees,

versus

BRAZORIA COUNTY, TEXAS, ET AL.,

Defendants,

JOE KING,  
Sheriff of Brazoria County, Texas,

Defendant-Appellant.

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Appeal from the United States District Court  
for the Southern District of Texas  
USDC No. CA-G-90-370  
- - - - -

March 19, 1993

Before KING, DAVIS, and SMITH, Circuit Judges.

PER CURIAM:\*

Joe King, in his individual capacity, brings this interlocutory appeal to contest the district court's denial of summary judgment for King based on qualified immunity. The "denial of a claim of qualified immunity, to the extent that it turns on an issue of law, is an appealable 'final decision' . . . notwithstanding the absence of a final judgment." Mitchell v.

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\* Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

Forsyth, 472 U.S. 511, 530, 105 S. Ct. 2806, 86 L. Ed. 2d 411 (1985).

The plaintiffs, Sandra Ellis, Gloria Howland, and the estate of Joe Ellis, concede on appeal that they no longer are suing King individually. Therefore, the issue on appeal is moot. With this issue being moot, there is no longer a basis for jurisdiction over the issue of qualified immunity.

In his reply brief, King argues that punitive damages should be struck from the case. This issue was not raised in King's original brief and is not properly before this Court on interlocutory appeal. See United States v. Miller, 952 F.2d 866, 874-75 (5th Cir.), cert. denied, 112 S. Ct. 3029 (1992).

DISMISSED.