

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 92-8497

NORMAN A. ARMSTRONG, JR.,

Plaintiff-Appellant,

versus

ROBERT SYMN, THOMAS VANNOY,
Individually, and as Police Chief of
the City of Temple and THE CITY OF
TEMPLE,

Defendants-Appellees.

Appeal from the United States District Court for the
Northern District of Texas
(W 91 CV 196)

(July 28, 1993)

Before KING and JOLLY, Circuit Judges, and PARKER, District Judge.*

PER CURIAM:**

After hearing oral argument and reviewing the records in this
case, we hold as follows:

*Chief Judge of the Eastern District of Texas, sitting by
designation.

**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should not be published.

The judgment of the district court is affirmed with respect to the dismissal of all claims against Temple police chief Thomas Vannoy and the city of Temple.

The judgment of the district court is reversed with respect to the defendant Symn. Armstrong has appealed the dismissal of the false arrest claim stemming from the July 1, 1989 arrest; the excessive force claim stemming from the July 1, 1989 arrest; and the denial of medical treatment claims stemming from both the December 3, 1988 and the July 1, 1989 arrests. We reverse and remand for trial on these claims against Symn.

I

The plaintiff-appellant sued Chief Vannoy in his individual capacity and as police chief. A supervisor may be held liable in his individual capacity only if the plaintiff shows (1) the supervisor's personal involvement in the constitutional deprivation, or (2) a sufficient causal connection between the supervisor's wrongful conduct and the constitutional violation. **Thompkins v. Belt**, 828 F.2d 298, 304 (5th Cir. 1987). There is no evidence that Chief Vannoy was in any way personally involved in Armstrong's arrests or in the alleged denial of medical treatment to Armstrong. Similarly, the plaintiff did not establish any causal connection between any supposed wrongful conduct on the part of Chief Vannoy and the claimed constitutional violations. Although Chief Vannoy apparently acknowledged that none of the city's police officers had received medical training, even if the

lack of such formal training could be considered a denial of a constitutional right (which we do not address) there must be some causal connection to the claimed violation, whether it is deliberate indifference to serious medical needs or any other claim of a due process violation under the Fourteenth Amendment. Here there was no such causal link demonstrated by the evidence, which showed that the alleged medical problem of the plaintiff required no special training to recognize and comprehend. The district court correctly dismissed all of the plaintiff's claims against Chief Vannoy in his individual capacity.

II

To succeed in his claims against the city of Temple, and against Chief Vannoy in his capacity as Police Chief, Armstrong must show that a governmental policy or custom existed that proved to be the moving force behind the alleged constitutional violations. **See Monell v. Dept. of Social Services of the City of New York**, 436 U.S. 658 (1978). Armstrong has not established the existence of any such policy or practice with respect to any of his claims, specifically failing as to those claims he appeals: the 1989 false arrest claim; the 1989 excessive force claim; and both denial of medical treatment claims -- one stemming from the 1988 arrest, the other from the 1989 arrest. As we noted above, the plaintiff's assertion of the failure to provide medical training to police officers cannot, absent a causal link to the claimed violation, establish a constitutional violation. The district

court correctly granted summary judgment in favor of the city and Chief Vannoy as Police Chief on these claims.

III

With respect to Officer Symn, however, the record tells a different story. Because material facts remain in dispute with respect to what occurred during the course of the two arrests and the subsequent pretrial detentions of the plaintiff, Officer Symn is not entitled to summary judgment on the appealed claims. We note as only one example, that there is significant disagreement concerning when the plaintiff was taken to the hospital after his 1989 arrest and whether he was placed in an unairconditioned patrol car with its windows rolled up in the heat of the afternoon for a substantial period of time during that arrest. A reasonable juror could find that the actions of Officer Symn (if proven by the plaintiff) of putting the plaintiff in the hot patrol car and leaving him there for a while constituted a means of punishment without due process sufficient to support a general excessive force claim. Several other material issues of fact remain in dispute which, if resolved by the fact finder in the plaintiff's favor, could support a jury verdict on each of the four appealed issues. Thus, summary judgment in favor of Officer Symn with respect to the denial of medical treatment claim stemming from the December 1988 arrest, the false arrest claim stemming from the August 1989 arrest, the excessive force claim stemming from the August 1989 arrest, and the denial of medical treatment claim stemming from the

August 1989 arrest was inappropriate. The district court's judgment as to these claims is reversed.

IV

In sum, the district court correctly granted summary judgment in favor of the city of Temple and police chief Thomas Vannoy on all claims. This portion of the district court's judgment is affirmed. Officer Symn, however, was not entitled to summary judgment on the four appealed claims. Material issues of fact remain in dispute concerning each of these claims. We thus reverse the portion of the district court's judgment granting summary judgment to Officer Symn on the 1988 denial of medical treatment claim, the 1989 false arrest claim, the 1989 excessive force claim, and the 1989 denial of medical treatment claim. We remand the case to the district court for further proceedings not inconsistent with this opinion.

The judgment of the district court is therefore

AFFIRMED in part;
REVERSED AND REMANDED in part.