

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 93-5354  
Conference Calendar

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CELESTE R. DEROUEN,

Plaintiff-Appellant,

versus

STEVE DAVIS, Chief of Police  
of the City of New Iberia, and  
MARY STEVENSON Etc.,

Defendants-Appellees.

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Appeal from the United States District Court  
for the Western District of Louisiana  
USDC No. 92-CV-1941  
- - - - -

(May 18, 1994)

Before HIGGINBOTHAM, BARKSDALE, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:\*

Celeste Derouen argues that Detective Mary Stevenson obtained the warrant for her arrest without probable cause and that there was substantial information available to exculpate Derouen had Detective Stevenson undertaken a "minimal investigation." Derouen further argues that because probable cause did not support the issuance of the warrant and that Stevenson did not exercise reasonable professional judgment, Stevenson is not entitled to qualified immunity.

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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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

This Court reviews a grant of summary judgment de novo. Abbott v. Equity Group, Inc., 2 F.3d 613, 618-19 (5th Cir. 1993), cert. denied, 114 S.Ct. 1219 (1994). Summary judgment is proper if the moving party establishes that there is no genuine issue of material fact and that it is entitled to judgment as a matter of law. Campbell v. Sonat Offshore Drilling, Inc., 979 F.2d 1115, 1119 (5th Cir. 1992). The party opposing a motion for summary judgment must set forth specific facts showing the existence of a genuine issue for trial. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 256-57, 106 S.Ct. 2505, 91 L.Ed.2d 202 (1986). On appeal from summary judgment, this Court examines the evidence in the light most favorable to the non-moving party. Salas v. Carpenter, 980 F.2d 299, 304 (5th Cir. 1992).

Qualified immunity protects government officials performing discretionary functions "from civil damages liability as long as their actions could reasonably have been thought consistent with the rights they are alleged to have violated." Enlow v. Tishomingo County, Miss., 962 F.2d 501, 508 (5th Cir. 1992) (quoting Anderson v. Creighton, 483 U.S. 635, 638, 107 S.Ct. 3034, 97 L.Ed.2d 523 (1987)). A defendant is entitled to assert qualified immunity as a defense if the actions he took were objectively and legally reasonable in light of clearly established law. Id.

This Court applies a bifurcated analysis to assess a claim of qualified immunity. Id. at 305. First, a determination is made whether "the plaintiff has alleged the violation of a clearly established constitutional right." Rankin v.

Klevenhagen, 5 F.3d 103, 105 (5th Cir. 1993) (internal quotation and citation omitted). If so, this Court then decides whether "the defendant's conduct was objectively reasonable, because even if an official's conduct violates a constitutional right, he is entitled to qualified immunity if the conduct was objectively reasonable." Id. (internal quotation and citation omitted).

Derouen alleged that she was falsely arrested. An unlawful arrest and detention made without a determination of probable cause are violative of the Fourth Amendment. Duckett v. City of Cedar Park, Tex., 950 F.2d 272, 278 (5th Cir. 1992). "The detention of a person arrested pursuant to a valid warrant . . . [does] not amount to a cognizable constitutional harm." Sanders v. English, 950 F.2d 1152, 1161 (5th Cir. 1992). Derouen does not contend that Officer Stevenson "recklessly or intentionally omitted mention of material facts that were clearly critical to the probable cause determination." Id. at 1160 (internal punctuation and citation omitted). Nor does she suggest that "the deliberations of the issuing judge were in some way tainted by the actions of the defendant[s]." Id. (internal quotation and citation omitted). Derouen's arrest was therefore made pursuant to a facially valid warrant issued by a judge of proper jurisdiction. Accordingly, even construing the facts in a light most favorable to Derouen, no evidence in the record demonstrates a violation of a clearly established constitutional right. Because Derouen failed to satisfy the first step of the qualified immunity analysis, the district court did not err in determining

that the defendants were entitled to judgment as a matter of law. See Quives v. Campbell, 934 F.2d 668, 670-71 (5th Cir. 1991).

Derouen concedes that if the district court did not err in concluding that "there was sufficient probable cause and the Defendants were entitled to qualified . . . immunity, the Court had no alternative other than to dismiss" Derouen's claims for slander, intentional infliction of emotional distress, and invasion of privacy, but did not otherwise argue or brief those issues on appeal. Because she failed to do so, any argument challenging the dismissal of those claims is deemed abandoned. See Yohey v. Collins, 985 F.2d 222, 224-25 (5th Cir. 1993); Fed. R. App. P. 28(a).

AFFIRMED.