

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-30368
Summary Calendar

NOEL PATRICK CASSANOVA
and KAREN SULLIVAN CASSANOVA,

Plaintiffs-Appellees,

versus

FRANK A. MARULLO, JR., ET AL.,

Defendants-Appellants.

Appeal from the United States District Court
for the Eastern District of Louisiana
(CA-94-0376)

(February 9, 1995)

Before JONES, BARKSDALE and BENAVIDES, Circuit Judges.

PER CURIAM:*

Appellants, judges of the criminal district court for the Parish of Orleans, challenge the district court's refusal to dismiss appellees' § 1983 complaint on the grounds of qualified immunity. An interlocutory appeal is permitted from the court's order only to the extent that qualified immunity was denied as a

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

matter of law. Mitchell v. Forsythe, 472 U.S. 511, 105 S.Ct. 2806 (1985).

Having reviewed the district court's order in light of appellees' complaint, we agree with her first conclusion: taking all of appellees' allegations as true, the appellants, by terminating Mr. Cassanova's employment, may have violated his constitutional right to free speech. This conclusion is based on Cassanova's allegations that he was terminated because he was acting as a "whistle blower" and was giving advice to the Governor and other public officials about the operations of the Jury Commission. Appellants may or may not have a chance of succeeding in their defense of qualified immunity at trial or at a much earlier point in the proceedings. As the district court recognized, however, it is plainly premature to dismiss this case on the pleadings.

Because the defense of qualified immunity was not erroneously denied, this appeal is DISMISSED.