UNITED STATES COURT OF APPEALS
FIFTH CIRCUIT

No. 94-60200

(Summary Calendar)

JAMES M. LYLE, IV,

Plaintiff-Appellant,

versus

RICARDO DEDEAUX, Officer, ET AL.,

Defendants-Appellees.

Appeal from the United States District Court
For the Southern District of Mississippi
(92-CV-577)

(October 24, 1994)

Before SMITH, EMILIO M. GARZA, and PARKER, Circuit Judges.

PER CURIAM:[*]

James M. Lyle, IV ("Lyle") filed suit against Officer Ricardo Dedeaux and Captain Rick Gaston of the Harrison County Sheriff's Department, and Officer Mike Hall of the Gulfport Police Department, alleging illegal search and seizure, negligent deprivation of personal property, and slander, in violation of 42 U.S.C. § 1983 (1988) and state law. The district court granted summary judgment on all federal claims and dismissed the state

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[*] Local Rule 47.5.1 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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

claims without prejudice. Lyle appeals the decision against him. We AFFIRM.

I

Lyle was arrested on three counts of sale of a controlled substance, marijuana.[1] After his arrest,[2] Lyle consented to a search of his apartment for marijuana, marijuana paraphernalia, and other illegal drugs. Lyle told the officers where the drugs were hidden in his apartment. Dedeaux and Hall promised that they would not ransack his apartment. When they searched the apartment, the officers, including Dedeaux and Hall, also found and seized items of a personal nature, including photos depicting men in various stages of undress, a book concerning sexuality and children, and a photo of a man and boy, both nude, on a horse. Although Dedeaux and Hall averred that they locked Lyle's apartment after the search, members of Lyle's family later found the apartment open, and that several additional items had been lost or stolen.[3] Lyle alleges that, after seizing his personal possessions, Dedeaux and Hall showed the photos to staff at the Harrison County Detention Facility. Lyle also alleges that Gaston made slanderous remarks to members of Lyle's family concerning the photos.

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[1] Because this case was decided on a motion for summary judgment, we view the pleadings and evidence in the light most favorable to the nonmovant. *King v. Chide*, 974 F.2d 653, 656 (5th Cir. 1992).

[2] At the time of his arrest on drug charges, Lyle was out on bail on a charge of fondling involving a 14-year-old child.

[3] These included a television, stereo receiver, cassette player, compact disc player, videocassette recorder, microwave oven, jewelry, cash, car title, clothing.

Lyle sued Dedeaux, Hall, and Gaston for violations of his civil rights under 42 U.S.C. § 1983 (1988), alleging that Dedeaux and Hall illegally seized his personal property and negligently left his apartment unlocked, permitting the loss or theft of other property, and that Dedeaux, Hall, and Gaston used the photos to slander Lyle. Dedeaux, Hall, and Gaston moved for dismissal of Lyle's suit for failure to state a claim or, alternatively, for summary judgment. Lyle also moved for summary judgment. The district court granted summary judgment to Dedeaux, Hall, and Gaston, finding that Lyle's evidence was not sufficient to preclude summary judgment against him. The district court also denied Lyle's summary judgment motion and dismissed his state law claims without prejudice. Lyle appeals the district court's decision, asserting that the district court erred in 1) finding that Lyle's personal property had been legally seized, 2) ruling that the officers' negligent failure to secure his apartment did not state a claim under § 1983, and 3) finding no constitutional violations for defamation or invasion of privacy, and 4) dismissing his punitive damages and state law claims.

II

A

Lyle primarily contends that the district court erred in granting summary judgment against him. Before reviewing the district court's summary judgment analysis, however, we must first determine if the district court erred in adjudicating Lyle's claims

at all. In *Heck v. Humphrey*,[4] the Supreme Court invalidated § 1983 claims that challenge either the prisoner's conviction or sentence, unless the prisoner had successfully questioned that conviction or sentence on direct appeal or habeas corpus. *Id.* at ___, 114 S. Ct. at 2372.[5] Consequently, a district court must dismiss a plaintiff's § 1983 suit if it would necessarily invalidate an unquestioned conviction or sentence. *Id.*[6] "But if the district court determines that the plaintiff's action, even if successful, will *not* demonstrate the invalidity of any outstanding criminal judgment against the plaintiff, the action should be allowed to proceed . . . ." *Id.* Because *Heck* was decided after the district court's grant of summary judgment, we must reassess Lyle's claims under the new standard. *See Stephenson v. Reno*, 28 F.3d 26, 27-28 (5th Cir. 1994) (reviewing case decided by district court before *Heck* and vacating and remanding to dismiss with prejudice because claim attacked conviction or sentence).

Heck will bar Lyle's § 1983 claims only if a judgment in his favor would render the conviction on the marijuana charges invalid. Neither the slander nor negligent deprivation of property claims

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[4] ___ U.S. ___, 114 S. Ct. 2364, 129 L. Ed. 2d 383 (1994). *Heck* was decided after the district court made its ruling in this case.

[5] "We hold that, in order to recover damages for allegedly unconstitutional conviction or imprisonment, or for other harm caused by actions whose unlawfulness would render a conviction or sentence invalid, a § 1983 plaintiff must prove that the conviction or sentence has been reversed on direct appeal, expunged by executive order, declared invalid by a state tribunal authorized to make such determination, or called into question by a federal court's issuance of a writ of habeas corpus . . . . *Id.*

[6] "We do not engraft an exhaustion requirement upon § 1983, but rather deny the existence of a cause of action." *Id.* at ___, 114 S. Ct. at 2373.

relate to the drug charges; therefore, the district court properly adjudicated these claims on the merits. The illegal search and seizure claim, however, could invalidate Lyle's conviction if a favorable judgment would negate the legality of the entire search. Lyle's § 1983 claim only challenges the search for and seizure of the photos, picture, and book. He did not challenge the search for the marijuana and related effects.[7] Consequently, Lyle's illegal search and seizure claim, even if successful, would not render his marijuana conviction invalid, and *Heck* does not bar adjudication of the § 1983 claims. We therefore hold that the district court properly entertained the motions for summary judgment on all of Lyle's § 1983 claims.

B

We review a district court's ruling on a motion for summary judgment *de novo*, applying the same standard as the district court did. *King v. Chide*, 974 F.2d 653, 655 (5th Cir. 1992); *Lodge Hall Music, Inc. v. Waco Wrangler Club, Inc.*, 831 F.2d 77, 79 (5th Cir. 1987); *Phillips Oil Co. v. OKC Corp.*, 812 F.2d 265, 272 (5th Cir.), *cert. denied*, 484 U.S. 851, 108 S. Ct. 152, 98 L. Ed. 2d 107 (1987). Summary judgment is appropriate only if "there is no genuine issue as to any material fact and . . . the moving party is entitled to a judgment as a matter of law." Fed. R. Civ. P. 56(c); *see also King*, 974 F.2d at 655-56; *Phillips Oil Co.*, 812 F.2d at

[7] Lyle contends for the first time on appeal that the defendants coerced him into signing the consent form. This court will not consider new issues not properly raised in the trial court. *See Singleton v. Wulff*, 428 U.S. 106, 120, 96 S. Ct. 2868, 2877, 49 L. Ed. 2d 826 (1976) ("[A] federal appellate court does not consider an issue not passed on below.").

272. In making this determination, we view the facts and inferences in the light most favorable to the nonmoving party. *King*, 974 F.2d at 656; *Lavespere v. Niagara Mach. & Tool Works, Inc.*, 910 F.2d 167 (5th Cir. 1990), *cert. denied*, ___ U.S. ___, 114 S. Ct. 171, 126 L. Ed. 2d 131 (1993); *Phillips Oil Co.*, 812 F.2d at 272.

The existence of a factual dispute, however, does not preclude summary judgment if the dispute is neither material nor genuine. *Professional Managers, Inc. v. Fawer, Brian, Hardy & Zatzkis*, 799 F.2d 218, 222 (5th Cir. 1986).[8] "Factual disputes that are irrelevant or that are unnecessary will not be counted." *Phillips Oil Co.*, 812 F.2d at 272. "[I]f [after] all the evidence to the contrary is fully credited, a trial court would [still] be obliged to direct a verdict in favor of the moving party, the issue is not genuine. Trial of such an issue would be wasted effort." *Professional Managers, Inc.*, 799 F.2d at 222.[9]

On a motion for summary judgment,

> a party seeking summary judgment always bears the initial responsibility of informing the district court of the basis for its motion, and identifying those portions of "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any," which it believes demonstrate the absence of a genuine issue of material fact.

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[8] *See also Phillips Oil Co.*, 812 F.2d at 272 ("With regard to `materiality,' only those disputes over facts that might affect the outcome of the lawsuit under the governing substantive law will preclude summary judgment.").

[9] *See also Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 252, 106 S. Ct. 2505, 2512, 91 L. Ed. 2d 202 (1986) ("The mere existence of a scintilla of evidence in support of the plaintiff's position will be insufficient; there must be evidence on which the jury could reasonably find for the plaintiff.").

Celotex Corp. v. Catrett, 477 U.S. 317, 323, 106 S. Ct. 2548, 2553, 91 L. Ed. 2d 265 (1986). However, "[a]lthough the moving party has the burden of showing the nonexistence of any issue of material fact, once this showing has been made, the burden is on the opposing party to show that summary judgment is inappropriate." *Lodge Hall Music, Inc. v. Waco Wrangler Club, Inc.*, 831 F.2d 77, 79 (5th Cir. 1987).

Lyle asserts that the defendants failed to submit sufficient competent summary judgment evidence to satisfy their burden of proof. Lyle contends that Dedeaux, Hall, and Gaston failed to satisfy their burden because they submitted no affidavits in support of their motion. Summary judgment, however, does not require affidavits by the moving party. *Celotex*, 477 U.S. at 323, 106 S. Ct. at 2553 (finding affidavits not required to support a motion for summary judgment). Further, Lyle contends that the defendants' answers to interrogatories, upon which Dedeaux, Hall, and Gaston depend in their motion for summary judgment, were not properly verified. Under Rule 33 of the Federal Rules of Civil Procedure, "[e]ach interrogatory shall be answered separately and fully in writing under oath . . . [and] [t]he answers are to be signed by the person making them . . . ." Fed. R. Civ. P. 33(b). Dedeaux, Hall, and Gaston each signed the answers to the interrogatories propounded to them, and their signatures were notarized.[10] Thus, the district court properly considered Dedeaux,

[10] Lyle contends that someone other than the person making the answers to the interrogatories filled in the date, and that this act invalidated the answers. Rule 33 does require the person answering interrogatories to sign the

Hall, and Gaston's answers to interrogatories in deciding the motion for summary judgment.

C

Lyle argues that Dedeaux, Hall, and Gaston violated his civil rights and are liable to him under § 1983. In order to state a claim under § 1983, a plaintiff must allege 1) a violation of constitutional rights, by 2) a person acting under color of law. *Flagg Bros., Inc. v. Brooks*, 436 U.S. 149, 156, 98 S. Ct. 1279, 1733, 56 L. Ed. 2d 185 (1978). It is undisputed that Dedeaux, Hall, and Gaston acted under color of state law; therefore, the second element is not in question, and Lyle must only have alleged a violation of constitutional rights to state his claim.

1

Lyle first contends that Dedeaux and Hall seized several items in violation of the Fourth Amendment's prohibition against unreasonable searches and seizures. He correctly states that the officers had no warrant to seize these items. Warrantless searches and seizures are generally unreasonable, unless an exception applies. *Katz v. United States*, 389 U.S. 347, 357, 88 S. Ct. 507, 514, 19 L. Ed. 2d 576 (1967).

The officers argue that the items were in plain view, and that they seized them lawfully under the "plain view" exception to the warrant requirement. For this exception to apply, 1) the item's

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answers. Fed.R.Civ.P. 33(b)(2). However, Rule 33 does not require that the person answering interrogatories *date* the answers. The fact that another person filled in the date next to the answerer's signature is of no legal consequence.

incriminating nature must be "immediately apparent," *Coolidge v. New Hampshire*, 403 U.S. 443, 466, 91 S. Ct. 2022, 2038, 29 L. Ed. 2d 564 (1971), and 2) the item must be in plain view from a location which the officer has a lawful reason to occupy. *Horton v. California*, 496 U.S. 128, 135-36, 110 S. Ct. 2301, 2306-308, 110 L. Ed. 2d 112 (1990).

Lyle asserts that the incriminating nature of the items could not have been immediately apparent because they were not incriminating. Police officers may seize an item in plain view if they have probable cause to believe the item to be probative of a crime. *Coolidge*, 403 U.S. at 468, 91 S. Ct. at 2039 (invalidating seizure because probative value not immediately clear); *United States v. Moreno*, 897 F.2d 26, 32 (2d Cir.) ("[T]he police must have had probable cause to believe that the item seized was evidence of a crime."), *cert. denied*, 497 U.S. 1009, 110 S. Ct. 3250, 111 L. Ed. 2d 760 (1990); *United States v. Amuny*, 767 F.2d 1113, 1125 (5th Cir. 1985) (finding evidence seizable if "evidence of a crime, contraband, or otherwise subject to seizure"). At the time of the search, the Biloxi Police Department was investigating an alleged fondling charge against Lyle. Officer Rick Kirk of the Biloxi Police Department had informed Dedeaux of this investigation. Consequently, when the officers searched Lyle's apartment and found items of a sexually explicit character, the officers reasonably could believe these items to be probative of a

sexual conduct-related charge.[11] The officers' conduct, therefore, satisfies the first element of the "plain view" exception.

Lyle does not dispute that the items were in plain view within the apartment, nor does he dispute that he consented to the search of his apartment for marijuana-related items. "[A] search conducted pursuant to a valid consent is constitutionally permissible." *Schneckloth v. Bustamonte*, 412 U.S. 218, 222, 93 S. Ct. 2041, 2045, 36 L. Ed. 2d 854 (1973); *see also Illinois v. Rodriguez*, 497 U.S. 177, 181, 110 S. Ct. 2793, 2797, 111 L. Ed. 2d 148 (1990) ("The prohibition [against warrantless searches] does not apply, however, to situations in which voluntary consent has been obtained . . . ."); *Vale v. Louisiana*, 399 U.S. 30, 35, 90 S. Ct. 1969, 1972, 26 L. Ed. 2d 409 (1970); *Katz*, 389 U.S. at 358, 88 S. Ct. at 515. Consequently, the officers' legal permission to be in the apartment was not a disputed issue, and Dedeaux and Hall sufficiently satisfied their summary judgment burden concerning the legality of the challenged seizure.

Because Dedeaux and Hall demonstrated the absence of a genuine issue of material fact regarding the search and seizure, the burden shifted to Lyle to prove otherwise. Lyle only contended that he did not validly consent to a search for the items seized, because he gave permission to search only for the marijuana. A lawful search, however, "generally extends to the entire area in which the

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[11] Lyle argues that the incriminating nature of the items could not have been immediately apparent unless the officers had personal knowledge of the alleged fondling victim's appearance and could identify the alleged victim in the items seized. We disagree; knowledge of the nature of the investigation sufficed to alert the officers to look for incriminating evidence relating to that charge.

object of the search may be found." *United States v. Ross*, 456 U.S. 798, 820-21, 102 S. Ct. 2157, 2170, 72 L. Ed. 2d 572 (1982). Accordingly, Lyle's consent to the search and seizure of the photos, picture, and book was unnecessary.[12] Consequently, Lyle failed to show that the items seized were unlawfully obtained, and the district court correctly granted summary judgment to Dedeaux and Hall on this issue.

B

Lyle further contends that Dedeaux and Hall have deprived him of his property in violation of § 1983. Deprivation of property without due process by persons acting under color of state law can be actionable under § 1983. *Parratt v. Taylor*, 451 U.S. 527, 536-37, 101 S. Ct. 1908, 1913-14, 68 L. Ed.2d 420 (1981), *overruled on other grounds by Daniels v. Williams*, 474 U.S. 327, 106 S. Ct. 662, 88 L. Ed.2d 662 (1986). However, mere negligence by state actors that deprives an individual of property does not violate § 1983. *Davidson v. Cannon*, 474 U.S. 344, 347, 106 S. Ct. 668, 670, 88 L. Ed.2d 677 (1986); *Daniels v. Williams*, 474 U.S. 327, 330-31, 106 S. Ct. 662, 664, 88 L. Ed.2d 662 (1986). "[T]he Due Process Clause is simply not implicated by a *negligent* act of an official causing unintended loss of or injury to life, liberty, or property." *Daniels*, 474 U.S. at 328, 106 S. Ct. at 663.

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[12] Lyle argued that, after discovery, he would have sufficient evidence to show the limited consent to only the marijuana-related items. However, "Rule 56 does not permit a party to avoid confronting his opponent's summary judgment proof by seeking discovery on factual matter that would not affect the legal basis for summary judgment." *Woods v. Federal Home Loan Bank Bd.*, 826 F.2d 1400, 1414-15 (5th Cir. 1987), *cert. denied*, 485 U.S. 959, 108 S. Ct. 1221, 99 L. Ed. 2d 422 (1988).

Lyle alleges that Dedeaux and Hall failed to secure his apartment after they had searched it. As a consequence of this failure, Lyle claims, certain items were seized or removed from his apartment. Lyle does not allege that the officers intentionally removed personal property; he merely alleges that they acted negligently. Thus, Dedeaux and Hall satisfied their burden by correctly pointing out the absence of an assertion of intentional conduct. At best, Lyle states a claim for simple negligence.[13] Lyle's evidence therefore does not establish a material factual dispute sufficient to overcome the motion for summary judgment.

Moreover, even if Dedeaux and Hall's conduct was more than negligent, the deprivation of property is not actionable unless the state has no adequate postdeprivation remedies. *See Hudson v. Palmer*, 468 U.S. 517, 533, 104 S. Ct. 3194, 3203-204, 82 L. Ed. 2d 393 (1984) (finding § 1983 unavailable after intentional deprivation of property if state has adequate postdeprivation remedies); *Logan v. Zimmerman Brush Co.*, 455 U.S. 422, 435-36, 102 S. Ct. 1148, 1157-58, 71 L. Ed. 2d 265 (1982) (finding state's postdeprivation remedies inadequate if complainant cannot obtain any hearing at all); *Parratt v. Taylor*, 451 U.S. 527, 536-38, 101 S. Ct. 1908, 1913-14, 68 L. Ed. 2d 420 (1981) (ruling that deprivation of property is not a violation of § 1983 if state provides postdeprivation remedy), *overruled on other grounds by*

[13] Therefore, as in *Daniels*, "this case affords us no occasion to consider whether something less than intentional conduct, such as recklessness or `gross negligence,' is enough to trigger the protections of the Due Process Clause." *Daniels*, 474 U.S. at 334 n.3, 106 S. Ct. at 666 n.3.

Daniels v. Williams, 474 U.S. 327, 106 S. Ct. 622, 88 L. Ed. 2d 662 (1986). Mississippi permits a cause of action for recovery of property. Miss. Code Ann. § 11-38-1 (1972 & Supp. 1994). Because Lyle could sue to recover his property under state law, § 1983 is not available on this claim. Even taking all of Lyle's contentions as true, none establishes a cause of action under § 1983 for deprivation of property, and the district court properly granted summary judgment to the defendants on this issue.

C

Lyle also contends that Dedeaux, Hall and Gaston violated § 1983 by defaming him with the photos, picture, and book seized from his apartment. A plaintiff must allege falsity, however, to state a claim for defamation. *San Jacinto Sav. & Loan v. Kacal*, 928 F.2d 697, 701 (5th Cir. 1991) (requiring "that a section 1983 [defamation] claimant show a stigma *plus* an infringement of some other interest" and that "[t]o fulfill the stigma aspect of the equation, a claimant must show falsity of the stigmatizing communication"); *Connelly v. Comptroller of the Currency*, 876 F.2d 1209, 1215 (5th Cir. 1989) (holding that no § 1983 claim would lie unless caused by a "false stigmatizing communication of the type found constitutionally actionable"). Dedeaux, Hall, and Gaston met their summary judgment burden by pointing out the absence of evidence of falsity, and Lyle failed to contest this showing.

Even if we construed Lyle's claim to include falsity of a

defamatory communication,[14] a § 1983 defamation claim requires a specific type of damage. Injury to a person's reputation alone does not create a constitutional violation. *Paul v. Davis*, 424 U.S. 693, 701-02, 96 S. Ct. 1155, 1160-61, 47 L. Ed. 2d 405 (1976) (holding that injury to reputation alone is not a constitutional violation); *Thomas v. Kipperman*, 846 F.2d 1009, 1010 (5th Cir. 1988) ("More must be involved than defamation to establish a § 1983 claim under the fourteenth amendment."). A plaintiff must allege harm to a tangible interest, such as employment, to establish a § 1983 violation. *Siegert v. Gilley*, 500 U.S. 226, 111 S. Ct. 1789, 1794, 114 L. Ed. 2d 277 (1991) (finding no constitutional violation for defamatory comments unless they harmed plaintiff's future employment prospects); *Thomas*, 846 F.2d at 1010 ("Damage to one's reputation alone, apart from some more tangible interest such as employment, does not implicate any `property' or `liberty' interest sufficient to invoke the due process clause."). Lyle alleged no harm to his employment prospects or any other tangible interest. Consequently, the district court correctly decided that Lyle failed to demonstrate a genuine issue of material fact of defamation reaching constitutional proportions under § 1983.

Lyle's claim, however, could be construed as an assertion of invasion of privacy. Disclosure of personal matters can violate a

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[14] We construe *pro se* pleadings liberally. *See Haines v. Kerner*, 404 U.S. 519, 92 S. Ct. 594, 30 L. Ed. 2d 652 (1972) (holding a *pro se* complaint, "however inartfully pleaded," to "less stringent standards than formal pleadings drafted by lawyers"); *Conley v. Gibson*, 355 U.S. 41, 46, 78 S. Ct. 99, 102, 2 L. Ed. 2d 80 (1957) (following the rule that "a complaint should not be dismissed for failure to state a claim unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief").

person's right to privacy. *Whalen v. Roe*, 429 U.S. 589, 599, 97 S. Ct. 869, 876, 51 L. Ed. 2d 64 (1977) (characterizing disclosure of personal matters as one form of right to privacy); *Davis v. Bucher*, 853 F.2d 718, 719 (9th Cir. 1988) (avoiding disclosure of personal matters is one form of right to privacy); *Slayton v. Willingham*, 726 F.2d 631, 635 (10th Cir. 1984) (discussing disclosure of personal matters as a violation of right to privacy). Such disclosure does not violate § 1983, however, unless the person's legitimate expectation of privacy outweighs a legitimate state need for the information. *Nixon v. Administrator of Gen. Servs.*, 433 U.S. 425, 465, 97 S. Ct. 2777, 2801, 53 L. Ed. 2d 867 (1977) (permitting some disclosure of private matter where privacy considerations were outweighed by public need to have that information); *Slayton*, 726 F.2d at 635 (finding no violation unless legitimate expectation of privacy and privacy interest outweighed public need for disclosure); *Fadjo v. Coon*, 633 F.2d 1172, 1176 (5th Cir. Unit B 1981) (requiring balancing between right to privacy and legitimate state interests). Because the Biloxi Police Department was investigating a fondling charge against Lyle, the state had a legitimate interest in obtaining and utilizing the photos, book and picture in its investigation. Dedeaux, Hall, and Gaston met their summary judgment burden by indicating the state's interest, and Lyle failed to show an expectation of privacy that outweighed that interest. Even if we take Lyle's accusations of improper conduct as true, the conduct did not create an injury of constitutional proportions. At worst, it was poor judgment. *See*

Davis, 853 F.2d at 720 (finding that prison official's distributing nude pictures of plaintiff's wife to three other people was poor judgment, but not a constitutional violation). We hold that the district court properly granted summary judgment to Dedeaux, Hall, and Gaston on this issue.

D

Lyle lastly contests the dismissal without prejudice of his state law causes of action. When a district court dismisses all federal claims, it may properly dismiss any pendent state claims. 28 U.S.C. § 1367(c) (1988); *see also Rhyne v. Henderson County*, 973 F.2d 386, 395 (5th Cir. 1992) (finding dismissal of state law claims correct after all federal questions were dismissed). All Lyle's federal claims were dismissed,[15] and the district court properly dismissed without prejudice his state law claims.

III

For the foregoing reasons, we AFFIRM.

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[15] Lyle also challenged the district court's dismissal of his punitive damages claim. Punitive damages may be awarded in § 1983 cases involving egregiously harmful intent, callousness or recklessness. *See Smith v. Wade*, 461 U.S. 30, 56, 103 S. Ct. 1625, 1640, 75 L. Ed. 2d 632 (1983) ("We hold that a jury may be permitted to assess punitive damages in an action under § 1983 when the defendant's conduct is shown to be motivated by evil motive or intent, or when it involves reckless or callous indifference to the federally protected rights of others."). Lyle did not successfully prove any violation of § 1983, much less at the level of conduct required for punitive damages. The district court properly dismissed this claim.