

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 96-20302
Summary Calendar

CALVIN LYNN MARTIN,

Plaintiff-Appellant,

versus

R.L. BAKER, Sgt.,

Defendant-Appellee.

Appeal from the United States District Court for the
Southern District of Texas
(CA-H-94-767)

October 18, 1996

Before HIGGINBOTHAM, WIENER, and BENAVIDES, Circuit Judges.

PER CURIAM:*

Calvin Lynn Martin, Texas prisoner # 687496, appeals the district court's order granting Baker's motion for summary judgment and dismissing his 42 U.S.C. § 1983 action. Martin argues that Baker's summary judgment evidence was insufficient to show that he

* Pursuant to Local Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in Local Rule 47.5.4.

was entitled to summary judgment, that there is a genuine issue of material fact as to whether Baker used excessive force and violated his constitutional rights, and that Baker is not entitled to qualified immunity. Martin failed to present any summary judgment evidence to support his allegation that Baker is not entitled to qualified immunity. Martin failed to meet his summary judgment burden of proof to show that there is a genuine issue of material fact that precludes the granting of summary judgment. Therefore, the district court did not err in granting Baker's motion for summary judgment. See Little v. Liquid Air Corp., 37 F.3d 1069, 1075 (5th Cir. 1994) (en banc).

AFFIRMED.