

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 99-11003
Summary Calendar

GREGORY WALKER

Plaintiff - Appellee

v.

SUSAN HARRIS

Defendant - Appellant

- - - - -
Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:96-CV-3129-T
- - - - -

June 15, 2000

Before KING, Chief Judge, and WIENER and BARKSDALE, Circuit
Judges.

PER CURIAM:*

Gregory Walker, Texas prisoner # 641329, filed suit against
Susan Harris under 42 U.S.C. § 1983 for false arrest and
malicious prosecution. Harris filed a motion for summary
judgment on the basis of qualified immunity. The district court
refused to grant that motion, and this appeal followed.

District court orders denying summary judgment on the basis
of qualified immunity are immediately appealable under the
collateral-order doctrine, notwithstanding their interlocutory

* Pursuant to 5TH CIR. R. 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that this opinion should not be published and is not precedent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 5TH CIR.
R. 47.5.4.

character, when based on a conclusion of law. See Mitchell v. Forsyth, 472 U.S. 511, 530 (1985). Such orders are not immediately appealable, however, if they are based on sufficiency of the evidence. See Johnson v. Jones, 515 U.S. 304, 313 (1995). The only evidence that Walker engaged in a drug transaction is Harris's affidavit that such an incident occurred. Walker, however, denies that any drug transaction occurred. Because there is a material fact-related dispute with regard to the circumstances surrounding Walker's arrest and prosecution, this court does not have jurisdiction to review the denial of Harris's motion for summary judgment based on qualified immunity. Accordingly, the appeal is DISMISSED FOR LACK OF JURISDICTION. All outstanding motions are DENIED.

APPEAL DISMISSED; ALL MOTIONS DENIED.