

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

January 13, 2026

Lyle W. Cayce
Clerk

No. 21-30754

RICHARD HERSHEY,

Plaintiff—Appellant,

versus

CITY OF BOSSIER CITY; BOBBY GILBERT, *Individually and in his
Capacity as Deputy Marshal*; DANIEL STOLL; DAVID SMITH;
TYSHON HARVEY; EUGENE TUCKER,

Defendants—Appellees.

Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 5:21-CV-460

PUBLISHED ORDER

Before DENNIS, RICHMAN, and HO, *Circuit Judges.**

PER CURIAM:

IT IS ORDERED that panel rehearing is DENIED. *See* FED. R.
APP. 40(a); 5TH CIR. R. 40 I.O.P.

* Judge Dennis did not participate in this decision.

No. 21-30754

JAMES C. HO, *Circuit Judge*, dissenting:

I would have granted panel rehearing, and taken the en banc dissent at its word, regarding its sudden and profoundly surprising change of heart on qualified immunity. Panel rehearing would have given Richard Hershey the opportunity to brief the qualified immunity issues that the dissent purportedly welcomed him to present. But I'm now reminded that "dissents . . . carry no legal force." *Georgia v. Public.Resource.Org, Inc.*, 590 U.S. 255, 273 (2020). So whatever assurances Hershey thought he was getting, it turns out that "comments in a dissenting opinion about legal principles and precedents are just that: comments in a dissenting opinion." *Id.* (cleaned up). I regret that things have come to this. The judiciary possesses neither the sword nor the purse. All we have is our word.