

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-4145
Conference Calendar

RICKY ALLEN ANDERSON,

Plaintiff-Appellant,

versus

TOWN OF BASTROP ET AL.,

Defendants-Appellees.

- - - - -
Appeal from the United States District Court
for the Western District of Louisiana
USDC No. 90-0199
- - - - -
(March 25, 1994)

Before KING, DAVIS, and DeMOSS, Circuit Judges.

PER CURIAM:*

After a bench trial, the district court granted the defendants' Fed. R. Civ. P. 52(c) motion for judgment as a matter of law and dismissed this 42 U.S.C. § 1983 suit which alleged malicious prosecution, because the plaintiff, Ricky Anderson, had failed to prove that his arrest was not based on probable cause.

This Court reviews a district court's determination in accordance with Rule 52(c) for clear error. Southern Travel Club, Inc. v. Carnival Air Lines, Inc., 986 F.2d 125, 128 (5th

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

Cir. 1993). We assume, without deciding, that an action for malicious prosecution states a claim under § 1983 and that it requires proof that the plaintiff was prosecuted without probable cause. See Brummett v. Camble, 946 F.2d 1178, 1180 n.2 (5th Cir. 1991), cert. denied, 112 S.Ct. 2323 (1992); see also Wheeler v. Cosden Oil and Chemical Co., 734 F.2d 254, 258-60 (5th Cir. 1984), modified but reaffirmed in relevant part, 744 F.2d 1131, 1132-33 (1984); see generally Albright v. Oliver, ___ U.S. ___, 114 S.Ct. 807, 812-14, 127 L.Ed.2d 114 (1994) (plurality opinion holding that there is no substantive due process right to be free from prosecution without probable cause).

A review of the record evidence demonstrates that the district court did not clearly err in its determination that the prosecution was supported by probable cause.

Anderson also suggests that he is entitled to appellate relief because his retained attorney was barred from practice before the district court and the district court did not appoint new counsel to represent him. The Court declines to consider this argument, which is raised for the first time on appeal, because it does not present purely legal issues. United States v. Garcia-Pillado, 898 F.2d 36, 39 (5th Cir. 1990).

AFFIRMED.