

United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

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Lyle W. Cayce
Clerk

No. 25-60232

KAREN HUGHEY, EXECUTRIX OF THE ESTATE OF JAMES ALLEN
HUGHEY,

Plaintiff—Appellant,

versus

TIPPAH COUNTY, MISSISSIPPI; TOMMY MASON, *in his individual
capacity,*

Defendants—Appellees.

Appeal from the United States District Court
for the Northern District of Mississippi
USDC No. 3:18-CV-4

Before KING, SMITH, and RAMIREZ, *Circuit Judges.*

IRMA CARRILLO RAMIREZ, *Circuit Judge:*

Karen Hughey, as Executrix of the estate of James Hughey, appeals the district court’s dismissal of her excessive-force claims against Deputy Tommy Mason based on qualified immunity. We AFFIRM.

I

James Hughey suffered from medical conditions that occasionally caused confusion and lack of awareness. In June of 2017, “in a confused state, consistent with ammonia poisoning,” he “entered” his ex-girlfriend’s

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sister's home. The sister called Mason, her ex-husband, who was on duty as a deputy for Tippah County, Mississippi. The deputy went to the home, where he "kicked and beat" Hughey, injuring him severely.

Hughey sued the deputy for excessive force under 42 U.S.C. § 1983 and assault and battery under Mississippi state law. The deputy moved for judgment on the pleadings, asserting qualified immunity, and the district court granted his motion.¹ Hughey then moved under Federal Rule of Civil Procedure 54(b) "to revise" the district court's judgment based on newly-acquired deposition testimony from the deputy. He also sought leave to amend his complaint. The district court denied the motion. Hughey timely appealed.

II

"We review a Rule 12(c) motion for judgment on the pleadings *de novo*." *Guidry v. Am. Pub. Life Ins. Co.*, 512 F.3d 177, 180 (5th Cir. 2007). "When confronted with a qualified-immunity defense at the pleadings stage, the plaintiff must plead 'facts which, if proved, would defeat [the] claim of immunity.'" *Guerra v. Castillo*, 82 F.4th 278, 285 (5th Cir. 2023) (alteration in original) (quoting *Waller v. Hanlon*, 922 F.3d 590, 599 (5th Cir. 2019)). At this stage, the plaintiff bears the "burden to demonstrate that qualified immunity is inappropriate." *Id.* (quoting *Terwilliger v. Reyna*, 4 F.4th 270, 280 (5th Cir. 2021)).

¹ Hughey also sued Tippah County under *Monell v. Department of Social Services*, 436 U.S. 658 (1978), it too moved for judgment on the pleadings, and the district court granted its motion. Although Hughey appealed the judgment against the County, he has since expressly abandoned all claims against it. Hughey likewise abandoned his argument that the district court erroneously dismissed his excessive-force claim under *Heck v. Humphrey*, 512 U.S. 477 (1994), which it undisputedly did not do.

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We review denial of a Rule 54(b) motion to revise and denial of leave to amend for abuse of discretion. *United States v. Renda*, 709 F.3d 472, 478–79 (5th Cir. 2013); *Vuoncino v. Forterra, Inc.*, 140 F.4th 200, 206 (5th Cir. 2025) (per curiam).

III

Hughey argues that the district court erred in granting the deputy qualified immunity. We disagree.

Qualified immunity involves a “two-pronged inquiry.” *Dilworth v. Tucker*, 179 F.4th 992, 996 (5th Cir. 2026) (quoting *Tolan v. Cotton*, 572 U.S. 650, 655 (2014)). “First, we ask ‘whether the facts, taken in the light most favorable to the party asserting the injury, show the officer’s conduct violated a federal right.’” *Id.* (citation modified) (quoting *Tolan*, 572 U.S. at 655–56). “Second, we ask ‘whether the right in question was clearly established at the time of the violation.’” *Id.* (quoting *Tolan*, 572 U.S. at 656). We “may address the two prongs in any order, and defendants are entitled to qualified immunity if the plaintiff fails either prong.” *Id.* (quoting *Wetherbe v. Tex. Tech Univ. Sys.*, 138 F.4th 296, 301 (5th Cir. 2025), *cert. denied*, 146 S. Ct. 1492 (2026)).

Regarding the first prong, “to state a violation of the Fourth Amendment prohibition on excessive force, the plaintiff must allege: (1) an injury that (2) resulted directly and only from the use of force that was excessive to the need, and (3) that was objectively unreasonable.” *Bush v. Strain*, 513 F.3d 492, 501 (5th Cir. 2008). “The objective reasonableness of the force, in turn, depends on the facts and circumstances of the particular case, such that the need for force determines how much force is constitutionally permissible.” *Id.* “Specifically, the court should consider ‘the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively

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resisting arrest or attempting to evade arrest by flight.’” *Id.* (quoting *Graham v. Connor*, 490 U.S. 386, 396 (1989)). The inquiry is “fact intensive[.]” *Craig v. Martin*, 49 F.4th 404, 409 (5th Cir. 2022).

Hughey’s live complaint does not plead sufficient facts to support an inference that the deputy’s use of force was excessive to the need. He does not allege any facts regarding the nature or “severity of the crime at issue.” *See Bush*, 513 F.3d at 501 (quoting *Graham*, 490 U.S. at 396). Nor does he allege that he was not posing a threat to the deputy or the occupants of the home he entered or that he was not resisting arrest. *See id.*

Although we take “as true the facts alleged in [it], . . . we cannot assume facts not alleged[.]” so we “cannot assume” that Hughey was not committing a severe crime, posing a threat, or resisting arrest, in the absence of *any factual* allegations. *See Griffin v. Round Rock Indep. Sch. Dist.*, 82 F.3d 414, *1 (5th Cir. 1996) (unpublished); *see also McCormack v. Nat’l Collegiate Athletic Ass’n*, 845 F.2d 1338, 1343 (5th Cir. 1988) (“[W]e do not assume facts that the plaintiffs have not alleged.”); *Rios v. City of Del Rio, Tex.*, 444 F.3d 417, 421 (5th Cir. 2006) (we cannot “‘conjure up unpled allegations . . . to’ save a complaint” (quoting *Gooley v. Mobil Oil Corp.*, 851 F.2d 513, 514 (1st Cir. 1988))). Hughey’s claim relies almost exclusively on the extent of his injuries, but in the absence of contextual factual allegations, injury alone is insufficient to state an excessive-force claim. *See Bush*, 513 F.3d at 501; *Tuttle v. Gallegos*, 180 F.4th 209, 224 (5th Cir. 2026) (“reaffirm[ing]” that “context matters” in excessive-force cases (citing *Barnes v. Felix*, 605 U.S. 73, 76 (2025))).

Nevertheless, we need not determine whether Hughey satisfied the first prong of qualified immunity because he has not even tried to make the requisite showing as to the second prong. “For a right to be clearly established, the ‘constitutional question’ must be ‘beyond debate.’”

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Dilworth, 179 F.4th at 996 (quoting *Ashcroft v. al-Kidd*, 563 U.S. 731, 741 (2011)). “There are three ways to demonstrate that the ‘constitutional question’ is ‘beyond debate.’” *Id.* (quoting *al-Kidd*, 563 U.S. at 741). “First, a plaintiff may ‘identify’ controlling authority ‘where an officer acting under similar circumstances was held to have violated the Constitution.’” *Id.* at 996–97 (citation modified) (quoting *Joseph ex rel. Est. of Joseph v. Bartlett*, 981 F.3d 319, 337 (5th Cir. 2020)). “Second, in the ‘absence of controlling authority,’ a plaintiff may instead identify ‘a robust consensus of cases of persuasive authority’ in which officers acting under similar circumstances were found to have violated the Constitution.” *Id.* at 997 (citation modified) (quoting *al-Kidd*, 563 U.S. at 742). “Third, a plaintiff may demonstrate ‘the rare obvious case where the unlawfulness of the officer’s conduct is sufficiently clear even though existing precedent does not address similar circumstances.’” *Id.* (citation modified) (quoting *Batyukova v. Doege*, 994 F.3d 717, 726 (5th Cir. 2021)). “At bottom, a plaintiff must show that ‘no reasonable officer could have believed his actions were proper.’” *Id.* (quoting *Perniciaro v. Lea*, 901 F.3d 241, 255 (5th Cir. 2018)). As “the Supreme Court has held[,] . . . generalizations and abstract propositions are not capable of clearly establishing the law.” *Morgan v. Swanson*, 659 F.3d 359, 372 (5th Cir. 2011); *see, e.g., al-Kidd*, 563 U.S. at 742 (“We have repeatedly told courts . . . not to define clearly established law at a high level of generality.”).

Here, Hughey neither cites controlling authority nor attempts to identify a “robust consensus” of persuasive authority that clearly establishes the law in his favor under the facts and circumstances alleged in the complaint. *See Dilworth*, 179 F.4th at 997 (quoting *al-Kidd*, 563 U.S. at 742). Nor has he demonstrated that this is the “rare” case in which an “obvious” constitutional violation occurred. *See id.* (quoting *al-Kidd*, 563 U.S. at 742). And this court cannot meaningfully “use its ‘full knowledge of its own [and other relevant] precedents’” to determine whether any right asserted by

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Hughey is clearly established, *see Elder v. Holloway*, 510 U.S. 510, 516 (1994) (alteration in original) (quoting *Davis v. Scherer*, 468 U.S. 183, 192 n.9 (1984)), because he does not allege facts to support an inference that the force used was excessive, like whether he was committing a serious crime, posing a threat, or resisting arrest, *see Bush*, 513 F.3d at 501.

IV

Hughey also argues that the district court abused its discretion by denying his Rule 54(b) motion and denying leave to amend.

It is unclear from Hughey's briefing whether he in fact argued that the district court erred in denying him leave to file an amended complaint. To the extent he did raise it, he forfeited this issue by failing to brief it. *See BP Expl. & Prod., Inc. v. Claimant ID 100141850*, 919 F.3d 887, 889 n.1 (5th Cir. 2019) (per curiam) (noting that failure to adequately brief an issue on appeal constitutes forfeiture).

Even if Hughey did not forfeit the issue, the district court did not abuse its discretion because amendment would have been futile. *See Johnson v. Teva Pharm. USA, Inc.*, 758 F.3d 605, 610 (5th Cir. 2014) ("A district court does not abuse its discretion in denying leave to amend if amendment would be futile."). It also did not abuse its discretion in denying Hughey's Rule 54(b) motion. The deputy's unrefuted deposition testimony proffered by Hughey suggests that he posed a threat and was resisting the deputy. None of it either supports an inference that the deputy used force excessive to the need that was objectively unreasonable, or otherwise suggests that the district court's initial judgment on the pleadings was improper. Hughey has not demonstrated an abuse of discretion. *See United States v. Henderson*, 636 F.3d 713, 717 (5th Cir. 2011) (per curiam) ("A district court abuses its discretion if it bases its decision on an error of law or a clearly erroneous assessment of

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the evidence.” (quoting *United States v. Smith*, 417 F.3d 483, 486–87 (5th Cir. 2005))).

VI

The district court’s judgment on the pleadings in favor of Deputy Mason and its order denying Hughey’s Rule 54(b) motion are both **AFFIRMED**. The remainder of his appeal is **DISMISSED** as abandoned. Hughey’s motion to strike the County’s brief, which we previously carried with the case, is **DENIED** as moot.

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KING, *Circuit Judge*, dissenting:

Though at the pleadings stage, the majority fails to credit the plaintiff's allegations or view them in the light most favorable to him. I thus respectfully dissent.

I

"We review a Rule 12(c) motion for judgment on the pleadings *de novo*." *Guidry v. Am. Pub. Life Ins. Co.*, 512 F.3d 177, 180 (5th Cir. 2007). The standard for reviewing that motion is the same as for reviewing a Rule 12(b)(6) motion. *Id.* That is, we "accept[] all well-pleaded facts as true, viewing them in the light most favorable to the plaintiff." *Id.*

II

Despite faithfully recounting Hughey's allegations, the majority pauses to wonder whether there is more to the story. Viewing the allegations with that suspicion, the majority then concludes that Hughey has not pleaded sufficient facts to state his excessive-force claim or for us to use the knowledge of our own precedents to determine that the law was clearly established. It is wrong on both counts.

A

Hughey's allegations are clear and unequivocal:

James Hughey, in a confused state, consistent with ammonia poisoning, entered Amanda Mason's home. Amanda Mason called her ex-husband, Defendant Mason, who arrived on the scene and kicked and beat James Hughey, fracturing several ribs and endangering his life by rupturing James Hughey's spleen.

He does not say that this *may* be what happened, that this is the best of his recollection, or that there may be details missing. He simply says he entered

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someone else's house and the defendant beat him. The majority agrees that this is what he says. *See ante*, at 1–2.

Sure, he also says he entered Amanda Mason's house "in a confused state." But "confused state" does not mean a belligerent state, a dangerous state, or even an uncooperative state. It could simply mean that he was mistaken as to whose house he was entering into, that he thought he knocked or rang the doorbell, or that he was let in. At this stage and in the face of these plausible inferences, we take the latter.

So the version of the events we must credit today is that Hughey entered someone else's home—which, at best, is a misdemeanor trespass under Mississippi law¹—and an officer responded to the scene and proceeded to use force so great that it fractured several ribs and ruptured Hughey's spleen. We are not at liberty to second-guess it by entertaining, like the majority does, "what ifs." We cannot ask, for example, "what if Hughey was resisting arrest?" or "what if Hughey had a weapon?" any more than we can ask "what if Hughey was a convicted serial killer on the loose?" or "what if Hughey was the devil himself?"

Once we credit that turn of events, the excessive-force analysis outlined in *Bush v. Strain*, 513 F.3d 492, 501 (5th Cir. 2008), becomes straightforward. Hughey suffered an injury in the form of fractured ribs and ruptured spleen. That injury was caused solely by the deputy's use of force—*i.e.*, kicking and beating him. And that force was objectively unreasonable because kicking and beating someone with such a force as to fracture several ribs and rupture a spleen are not commensurate with misdemeanor trespass when nothing in the complaint indicates that Hughey was resisting, had a

¹ MISS. CODE § 97-17-97.

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weapon, or was a serial killer on the loose. The analysis begets one result at this stage: Hughey has stated an excessive-force claim.

Concluding otherwise, the majority errs in two ways. First, it claims Hughey “does not allege any facts regarding the nature or ‘severity of the crime at issue.’” *Ante*, at 4. But he does; he entered someone else’s home, a misdemeanor trespass at best. We are left to divine why that is an insufficient explanation of the nature or severity of the crime at issue.

Second, the majority asserts that we cannot infer from the allegations that Hughey was not posing a threat or resisting arrest. *Ante*, at 4. But by asserting so, the majority tips its hand. Instead of believing Hughey’s allegations that he walked into someone else’s house and was subsequently beaten—that is all that happened—the majority thinks surely something else must have happened. The law does not permit such hypothesizing. Instead, we must credit Hughey’s allegations as given and view them in his favor.

The majority’s reliance on *Griffin v. Round Rock Independent School District*, 82 F.3d 414 (5th Cir. 1996) (per curiam) (unpublished), demonstrates its error. In that non-precedential case, we concluded that the plaintiff “ha[d] not asserted any facts which suggest that the alleged discrimination was hidden or was not apparent to a reasonably prudent person similarly situated.” *Id.*, at *2. But by “any facts,” we really meant the plaintiff had not alleged *any* facts. The complaint there had *zero* facts that would even hint at why the plaintiff could not file his discrimination suit until nine months after the statute of limitations had passed. *Id.* Here, on the other hand, we have a complete story of what happened—Hughey walked into someone else’s house and was beaten for it. Only by second-guessing Hughey’s allegations contrary to well-established law can the majority think *Griffin* applies here.

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B

The majority's mistaken reading of the complaint contaminates its clearly-established-law analysis. *See ante*, at 5–6. Under the correct reading, the allegations demonstrate a violation of clearly established law. This circuit has long held that use of force sufficient to cause significant injuries when the arrestee is “not resisting arrest or attempting to flee” is a violation of the Fourth Amendment. *Bush*, 513 F.3d at 502 (explaining that the Fourth Amendment's reasonableness “test is clear enough” that the defendant was not entitled to qualified immunity when the plaintiff “was not resisting arrest or attempting to flee when [the defendant] forcefully slammed her face into a nearby vehicle”). Indeed, as early as 2013, “it was clearly established that violently slamming or striking a suspect who is not actively resisting arrest constitutes excessive use of force.” *Darden v. City of Ft. Wor.*, 880 F.3d 722, 733 (5th Cir. 2018). So too here. When we credit his allegations and view them in the light most favorable to him, as we must, we see Hughey was not resisting or fleeing; he simply walked into someone else's house and was beaten for it. The deputy is thus not entitled to qualified immunity at this stage. I would reverse.

III

Under the correct lens, the complaint sufficiently states a violation of a clearly established constitutional right against excessive force to overcome qualified immunity. Because the majority reaches a different result by improperly second-guessing Hughey's allegations in violation of a time-honored rule, I respectfully dissent.