

United States Court of Appeals
for the Fifth Circuit

No. 25-50656

United States Court of Appeals
Fifth Circuit

FILED

August 17, 2026

Lyle W. Cayce
Clerk

TIFFANY BISSELL,

Plaintiff—Appellant,

versus

ELAINE MATA, *in her individual capacity*; BRITTANY HEMENWAY, *in her individual capacity*; FELISHA RODRIGUEZ, *in her individual capacity*; DANIELLE CLARIDGE, *in her individual capacity*; DOES 1-10,

Defendants—Appellees.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 6:21-CV-924

Before WILLETT, ENGELHARDT, and DOUGLAS, *Circuit Judges*.

PER CURIAM:*

Plaintiff-Appellant Tiffany Bissell appeals the dismissal of her claims against employees of the Texas Department of Family and Protective Services (“TDFPS”) relating to the temporary removal of her minor children, J.N. and M.D., from her custody. Bissell sued four TDFPS employees—Elaine Mata, Danielle Claridge, Felisha Rodriguez, and Brittany

* This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

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Hemenway—under 42 U.S.C. § 1983 for violating her Fourteenth Amendment substantive and procedural due process protections.¹ Bissell claims the removal of her children resulted in denials of her procedural and substantive due process rights, as well as a violation of her right to family integrity. Because we find that Bissell’s right to family integrity is not clearly established on these facts, and that she has failed to show a violation of her due process rights, we AFFIRM the order of the district court.

I

Bissell’s first encounter with TDFPS stemmed from a March 5, 2019, investigation into a physical altercation between Bissell and her minor stepdaughter, C.D. Bissell is married to John Dumdie, who is not a party to this suit. C.D. is Dumdie’s child from a previous marriage. According to Bissell’s complaint, C.D. initiated a physical altercation with Bissell that led to C.D. sustaining a “bruise on her left chin area” and a “scratch over her right eye.” C.D. was around fourteen years old at the time of this incident. Roughly two months after the altercation, TDFPS alleged Bissell “refused to assume parental responsibility” for C.D. because she was a “dangerous” child. TDFPS removed C.D. from Bissell’s residence.

Defendant-Appellee Elaine Mata, the caseworker assigned to Bissell’s case, arrived for a home visit on August 30, 2019. Following the visit, Mata prepared an internal TDFPS report alleging that Bissell was neglectfully supervising M.D. She expressed concern that Bissell’s past violent behavior posed a danger to M.D. Mata’s report also referred to a domestic violence incident that Dumdie initiated against Bissell, even though Mata was allegedly aware that Dumdie had since retracted his allegations. The report also discussed Bissell’s previous violent altercation with her stepdaughter.

¹ Bissell also sued ten unnamed defendants employed by TDFPS.

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Defendant-Appellee Claridge then investigated the contents of Mata's account. Claridge also received records of Dumdie's recanted domestic violence claims from the Coryell County Sheriff's Office. Following her review of these records, she filed an affidavit for the removal of J.N. and M.D. Judge Mabray of the Coryell County Court then signed an order to have J.N. and M.D. removed, and the two minors were temporarily removed from Bissell's home. Following the children's removal, the neglectful supervision allegation was dismissed.

Bissell's complaint raises three Fourteenth Amendment Due Process Clause claims, including a family-integrity claim resulting from the temporary removal of her children. She raises the same arguments on appeal. Following the filing of Bissell's second amended complaint, the Defendants filed a motion for summary judgment based on qualified immunity. The magistrate judge issued a report recommending that the district court grant the Defendants' motion on qualified immunity grounds because Bissell's right to family integrity was not clearly established and because she received adequate procedural due process. Bissell timely filed objections to the magistrate judge's report and recommendation. Over her objections, the district court adopted the recommendation, entered final judgment for the Defendants, and Bissell appealed to our court.

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II

We review a grant of summary judgment on the basis of qualified immunity de novo. *Morrow v. Meachum*, 917 F.3d 870, 874 (5th Cir. 2019) (citing *Vann v. City of Southaven*, 884 F.3d 307, 309 (5th Cir. 2018) (per curiam)). When a public official makes a “good-faith assertion of qualified immunity,” the plaintiff bears the burden of showing that qualified immunity is unavailable. *Joseph ex rel. Joseph v. Bartlett*, 981 F.3d 319, 329–30 (5th Cir. 2020). “The plaintiff must show that there is a genuine dispute of material fact and that a jury could return a verdict entitling the plaintiff to relief for a constitutional injury.” *Id.* at 330. However, “to overcome qualified immunity, the plaintiff’s version of those disputed facts must also constitute a violation of clearly established law.” *Id.*

III

Bissell argues that the district court erred in granting qualified immunity to the Defendants because they fabricated evidence and “omitted relevant information” that “exculpated” Bissell from the recanted domestic violence incidents initiated by Dumdie. Bissell also claims that Claridge’s investigation into Mata’s initial report was a “sham.” On appeal, she reprises all allegations made in her complaint and maintains that Appellees “withheld and ignored exculpatory evidence” and that all of Dumdie’s accusations against her were fabricated. Bissell also argues that qualified immunity is inappropriate.

First, while Bissell maintains that her constitutional right to family integrity has been violated, Defendants counter that the right to family integrity is “not absolute,” and must be balanced against the state’s interests in health, safety, and the welfare of children, which tip in the state’s favor.

The Supreme Court has recognized that the right to family integrity is a substantive right guaranteed by the Due Process Clause of the Fourteenth

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Amendment. *See Stanley v. Illinois*, 405 U.S. 645, 651 (1972) (citation omitted). “Although constitutionally protected, the right[] to family integrity. . . [is] not absolute or unqualified.” *Morris v. Dearborne*, 181 F.3d 657, 669 (5th Cir. 1999) (citation omitted). The state may intervene to protect a child “when necessary.” *Id.* “Children’s protective services workers face difficult decisions in the field.” *Roe v. Tex. Dep’t of Protective and Regul. Servs.*, 299 F.3d 395, 410 (5th Cir. 2002). They must make “on-the-spot” decisions in determining whether to remove a child from a potentially dangerous environment or to make a “judgment call” and leave the child in that environment. *Id.* at 410–11. Cases alleging government interference with this right must therefore be placed “along a continuum between the state’s clear interest in protecting children and a family’s clear interest in privacy.” *Dearborne*, 181 F.3d at 671. To overcome qualified immunity in this context, a plaintiff must establish that the unlawfulness of the defendants’ conduct “would [have] be[en] apparent to a reasonably competent official.” *Id.* at 666 (citation omitted). On the facts before us, we conclude that Bissell has failed to make such a showing.

Bissell correctly noted that the right to family integrity is characterized as “nebulous” because of the tensions discussed above. She argues, though, that the facts in this case place it “squarely at the end of the continuum when the state’s interest is negligible and where the family privacy is well developed.” In support of this argument, Bissell focuses on ignored “exculpatory” evidence and “misstated” facts, many of which are irrelevant to the issues on appeal. Bissell then discusses applicable authority but fails to adequately explain how precedent supports her claim that her right to family integrity was violated. Throughout her opening brief, she claims violations of her substantive and procedural due process rights as a result of these “false” claims against her.

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Bissell's scattershot claims are difficult to follow. She relies on criminal cases that have little to do with her clearly established rights, and fails to illustrate that the judicial proceeding removing her children was substantively or procedurally defective. She clings only to the fact that Dumdie's domestic violence claims were recanted, a fact that was not disputed at the district court and is not disputed on appeal. She likewise fails to support her claim that the investigation into her was a "sham," and fails to overcome qualified immunity. In fact, her only real argument against qualified immunity is that our court established that the constitutional right against false testimony at trial is clearly established. *Marks v. Hudson*, 933 F.3d 481, 490 (5th Cir. 2019). She claims that the court order to remove her children was unconstitutional because it was obtained by false affidavit and focuses once on the "fabricated" claims by Dumdie. The arguments in Bissell's reply brief fare no better: she *again* cites cases which hold that the right to family integrity is clearly established without showing that the right is clearly established in *this* case.

Bissell does not attempt to distinguish the cases the district court found entitled the Defendants to qualified immunity. In *Hodorowski v. Ray*, the Texas Department of Human Services and its employees were sued for temporarily removing the plaintiffs' children without a court order. 844 F.2d 1210, 1214 (5th Cir. 1988). In that case, the state employees observed bruising on the plaintiffs' children, which was consistent with a report that their father chased them around the yard with a chain. *Id.* at 1217. Our court found that the child protective workers were entitled to qualified immunity because the right to family integrity was not clearly established under those facts. *Id.* In *Doe v. Louisiana*, the plaintiff alleged, much like Bissell, that the defendants withheld and ignored exculpatory evidence. 2 F.3d 1412, 1415 (5th Cir. 1993). The complaint in that case alleged "nightmarish" conduct by the child protective workers during a four-month "witch hunt." *Id.* at

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1421 (KING., J., concurring). Despite allegations that the state employees suppressed reports, misrepresented the findings in those reports, and secretly obtained a court order awarding custody of the plaintiff's son to his mother, *id.*, we held that the child protective workers did not violate a clearly established constitutional right at the time of their conduct. *Id.* at 1418. The cases identified by the district court allege conduct more egregious than the conduct alleged by Bissell, precluding a finding that Bissell's right to family integrity was clearly established. She has therefore failed to overcome the Defendant's qualified immunity.

The Defendants argue that because Bissell's brief is so "grossly inadequate with respect to her substantive, legal arguments" that it constitutes waiver of many of the issues she intends to raise on appeal. While many of Bissell's arguments are indeed underdeveloped, we nevertheless address her remaining two claims, namely her procedural due process violation and the consideration of alleged false testimony in Mata's internal report.

Bissell argues that the Defendants violated her procedural due process rights when her children were removed. She states that the Defendants failed to follow proper state procedures for the judicial removal of a child. In support of her argument, she cites *Gates v. Tex. Dep't of Protective & Regul. Servs.*, 537 F.3d 404 (5th Cir. 2008). She appears to suggest that Mata's report was so lacking that the issuance of a removal order relying on its facts constituted a procedural due process violation. *Gates* recognized that "the government may not seize a child from his or her parents absent a court order, parental consent, or exigent circumstances." 537 F.3d at 429. In *Gates*, the children were seized *without* a court order, and an immediate post-removal hearing was held. *Id.* at 434–35. Here, children were seized pursuant to a court order. Bissell's continued focus on Dumdie's alleged false accusations does not constitute a clearly established violation of Bissell's procedural due

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process rights under *Gates*, and Bissell does not provide any other cases to carry her burden to overcome qualified immunity.

Bissell's final argument relating to Claridge's false affidavit also fails to overcome qualified immunity. She cites *Marks v. Hudson* where our court held that a clearly established constitutional violation occurs where "an official makes a knowing, intentional, or reckless false statement or omission that causes the issuance of a warrant without probable cause that leads to the removal of a child." 933 F.3d at 486 (citing *Franks v. Delaware*, 438 U.S. 154, 155–56 (1978)). Bissell argues that Claridge's affidavit is predicated on fabricated evidence about the August 30 call for service and omits that the police deputies did not believe Dumdie's accusations, that one of the children reported only verbal, not physical, fighting, and that Claridge examined the children to be clean and without marks or bruises. But Claridge's affidavit plainly indicates that Dumdie recanted his allegations to the police, and that one of the children reported verbal fighting alone. And Bissell fails to acknowledge that the TDFPS report recommending the removal of her children also relied on the uncontested fact that Bissell physically fought with her stepdaughter in her home. Although Bissell puts forth various justifications for her fighting with her stepdaughter, she does not dispute that bruising on C.D. resulted from their altercation. In *Marks* even though we held that there were "some potentially false statements" in the affidavit, we concluded that probable cause in that case did not turn on those statements because we found that the physical altercation was "the key fact." *Marks*, 933 F.3d at 489. Here, the affidavit included undisputed information about physical disputes between Bissell and C.D., Dumdie's allegations of violence with the caveat that he later withdrew them, and information about Bissell's refusals to let TDFPS employees interview the children. Bissell's largely conclusory arguments fail to disprove qualified immunity, as Bissell has not shown the alleged fabrications and omissions

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“were necessary to the finding of probable cause for the removal of the children.” *Marks*, 933 F.3d 488.

The above cases, and Bissell’s failure to distinguish them, show that Bissell’s right to family integrity was not well-established as applied to the facts in this case at the time of her children’s temporary removal. She also fails to show how her substantive and procedural due process rights were violated on these facts, and is unable to show any genuine dispute of material fact that would defeat summary judgment.

IV

For the reasons stated above, we AFFIRM the order of the district court.