

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-5186
Summary Calendar

DOROTHY C. SCHUFF,

Plaintiff-Appellee,

versus

BOBBY D. SIMON, Etc., et al.,

Defendants,

BOBBY D. SIMON, as an individual
and as a government official,

Defendant-Appellant.

Appeal from the United States District Court for
the Eastern District of Texas
(1:93-CV70)

(June 2, 1994)

Before REAVLEY, DAVIS and DeMOSS, Circuit Judges.

PER CURIAM:*

Dorothy Schuff complains of excessive force employed by peace officer Bobby Simon. Simon pleaded qualified immunity and moved for summary judgment. This is an interlocutory appeal from the denial of that motion.

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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

No proof was submitted to the court, and Simon's motion was predicated solely on the inadequacy of Schuff's pleading. The magistrate judge correctly held that the allegations adequately overcome the claim of qualified immunity.

We see no reason for the motion and appeal other than delay. Double costs are awarded to the plaintiff--appellee Schuff.

AFFIRMED.