

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 15-12677
Non-Argument Calendar

D.C. Docket No. 1:13-cv-00522-WS-M

AMY RACHEL,
as administratrix of the estate of
Gregory Rachel, deceased,

Plaintiff-Appellee,

versus

CHRISTOPHER MCCANN,
JOHN JACKSON,

Defendants-Appellants.

Appeals from the United States District Court
for the Southern District of Alabama

(February 4, 2016)

Before WILSON, JORDAN, and JULIE CARNES, Circuit Judges.

PER CURIAM:

Officers Christopher McCann and John Jackson appeal the district court's denial of their motions for summary judgment on the basis of qualified immunity in an action brought by plaintiff-appellee Amy Rachel (Plaintiff), the administratrix of the estate of Gregory Rachel (Rachel), who died in police custody. In her complaint, Plaintiff averred McCann and Jackson used excessive force to effect Rachel's arrest, were deliberately indifferent to Rachel's serious medical need, and were liable under state law for his wrongful death.

In support of her claims and in response to McCann's and Jackson's summary judgment motions, Plaintiff proffered evidence that McCann and Jackson repeatedly kicked and beat Rachel while he lay prone and non-resisting on the ground. She also presented evidence that they subsequently failed to summon a medical unit for assistance, instead kneeling and sitting on Rachel, hog-tying him, and keeping him on his stomach with his stomach bowed towards the ground, without regard for his breathing, pulse, or consciousness. And, after witnessing Rachel "seize" and fall unconscious, they made no effort to transport him to an emergency room, summon medical assistance, or check his breathing or pulse.

After reviewing the evidence and drawing all reasonable inferences therefrom in favor of Plaintiff, as we must at this stage in the proceedings, we substantially agree with the district court's findings of fact and holdings of law.

Accordingly, McCann and Jackson are not entitled to qualified immunity, and the district court properly denied their motions for summary judgment. Thus, the order of the district court is

AFFIRMED.