

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 16-17041

D.C. Docket No. 8:15-cv-02814-EAK-TGW

DEMETRIUS LAREDO WALKER,

Plaintiff - Appellant,

versus

DANIEL F. POVEDA,
JENNA ELIZABETH ROBERTS,
ANDREW P. VIEHMANN,

Defendants - Appellees.

Appeal from the United States District Court
for the Middle District of Florida

(August 21, 2018)

Before WILSON and NEWSOM, Circuit Judges, and WRIGHT, * District Judge.

PER CURIAM:

Demetrius Walker appeals the district court's order granting summary judgment and dismissing his 42 U.S.C. § 1983 suit, in which he alleged that several St. Petersburg police officers used excessive force in the course of arresting him in 2012. In particular, Walker contends that the district court erred (1) in refusing to consider in its summary judgment analysis his verified amended *pro se* complaint and his verified *pro se* summary judgment response, and (2) in resolving disputed material facts against him. After careful review of the briefs and the record, and having had the benefit of oral argument, we agree with Walker and therefore reverse and remand for further proceedings.

In granting summary judgment, the district court stated that Walker could not “rely solely on his complaint and other initial pleadings to contest a motion for summary judgment supported by evidentiary material, but must respond with affidavits, depositions, or otherwise to show that there are material issues of fact which require trial.” That was error. Walker verified his complaint and summary judgment response in accordance with 28 U.S.C. § 1746 by attesting to the truth of his factual assertions under penalty of perjury, and we have held that pleadings verified under § 1746 are admissible (and may substitute for sworn affidavits) on

* Honorable Susan Webber Wright, United States District Judge for the Eastern District of Arkansas, sitting by designation.

summary judgment. *See, e.g., Caldwell v. Warden, FCI Talladega*, 748 F.3d 1090, 1098 (11th Cir. 2014); *Pretka v. Kolter City Plaza II, Inc.*, 608 F.3d 744, 749 n.5 (11th Cir. 2010).

Walker further contends that the district court impermissibly resolved disputed material facts against him on summary judgment. Although we think it a close question, we conclude that, if read liberally and in the light most favorable to him—as they must be, *see, e.g., Tannenbaum v. United States*, 148 F.3d 1262, 1263 (11th Cir. 1998)—Walker’s verified complaint and summary judgment response adequately reveal a factual dispute that makes summary judgment improper.¹

REVERSED and REMANDED.

¹ We note for the record that Walker was very ably represented on a *pro bono* basis by Mr. Christopher R. Healy of the law firm of King & Spalding LLP. The Court sincerely appreciates Mr. Healy’s service to his client and the justice system.