

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-6411

ROBERT FROST, JR.,

Plaintiff - Appellant,

v.

G. TONEY, Officer, #03167, Lee Correctional Institution, in
his individual and official capacity,

Defendant - Appellee.

Appeal from the United States District Court for the District of
South Carolina, at Anderson. Joseph F. Anderson, Jr., Chief
District Judge. (8:07-cv-00108-JFA)

Submitted: April 30, 2009

Decided: June 4, 2009

Before WILKINSON, KING, and GREGORY, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Robert Frost, Jr., Appellant Pro Se. Marshall Hodges
Waldron, Jr., Beaufort, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Robert Frost, Jr., appeals from the district court's order entered in accordance with the jury's verdict finding unanimously for the Defendant in Frost's 42 U.S.C. § 1983 (2000) action alleging excessive use of force.

We will reverse a jury's verdict only when there is a complete absence of probative facts to support the jury's conclusions. Sherrill White Constr., Inc. v. South Carolina Nat'l Bank, 713 F.2d 1047, 1050 (4th Cir. 1983). The "verdict must stand if, taking the evidence in the light most favorable to Defendant, there is 'any substantial evidence' to support it." Vodrey v. Golden, 864 F.2d 28, 30 n.4 (4th Cir. 1988). "Substantial evidence" is such evidence as a reasonable mind might accept as adequate to support the conclusion even if different conclusions also might be supported by the evidence. Gibraltar Sav. v. LDBrinkman Corp., 860 F.2d 1275, 1297 (5th Cir. 1988). Finally, in reviewing a jury verdict, we do not weigh the evidence or review witness credibility. United States v. Saunders, 886 F.2d 56, 60 (4th Cir. 1989).

The jury heard testimony from a total of eight witnesses over the course of two days. The jury clearly believed the testimony of the Defendant's witnesses. Because we do not weigh the credibility of witnesses, Frost cannot show that there was a complete absence of probative facts to support

the jury's verdict. Accordingly, we affirm. In light of this disposition, we deny Frost's motions to correct the record, to remand the case, and for leave to file a statement of the evidence. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED