

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 08-7289

JOHN PORTEE, JR.,

Plaintiff - Appellee,

v.

NFN WASHINGTON, Officer; NFN DANIELS, Officer; NFN HASKINS,
Officer,

Defendants - Appellants,

and

NFN FELDER, Officer at Alvin S. Glenn Detention Center; NFN
WATERS, Sergeant; NFN KARN, Sergeant; NFN MOODY, Lieutenant;
CAPTAIN REFO; NFN HIGGINS, Captain,

Defendants.

Appeal from the United States District Court for the District of
South Carolina, at Charleston. Patrick Michael Duffy, District
Judge. (2:07-cv-00945-PMD)

Submitted: March 3, 2010

Decided: April 2, 2010

Before MICHAEL, MOTZ, and DUNCAN, Circuit Judges.

Affirmed in part; dismissed in part by unpublished per curiam
opinion.

Andrew Lindemann, DAVIDSON & LINDEMANN, P.A., Columbia, South
Carolina, for Appellants. Catherine H. McElveen, RICHARDSON,

PATRICK, WESTBROOK & BRICKMAN, LLC, Mt. Pleasant, South
Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

In this 42 U.S.C. § 1983 (2006) action, the district court adopted the recommendation of the magistrate judge and granted the Defendants' motion for summary judgment as to all Appellee's claims except his failure-to-protect claim against Defendants Washington, Daniels, and Haskins. Washington, Daniels, and Haskins moved for reconsideration, contending, among other things, that the district court erred in rejecting their qualified immunity defense. The district court denied the motion. Washington, Daniels, and Haskins appeal. We affirm in part and dismiss in part.

The portion of the district court's order finding that Appellants were not entitled to qualified immunity is immediately appealable, see Mitchell v. Forsyth, 472 U.S. 511, 530 (1985); however, we have reviewed the record and find no reversible error. Accordingly, we affirm this portion of the appeal for the reasons stated by the district court. Portee v. NFN Washington, No. 2:07-cv-00945-PMD (D.S.C. May 28 & June 25, 2008).

To the extent that the Appellants seek to appeal the remainder of the district court's order, this court may exercise jurisdiction only over final orders, 28 U.S.C. § 1291 (2000), and certain interlocutory and collateral orders, 28 U.S.C. § 1292 (2000); Fed. R. Civ. P. 54(b); Cohen v. Beneficial Indus.

Loan Corp., 337 U.S. 541 (1949). The order Appellants seek to appeal is neither a final order nor an appealable interlocutory or collateral order. Accordingly, we dismiss this portion of the appeal for lack of jurisdiction.

We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before us and argument would not aid the decisional process.

AFFIRMED IN PART;
DISMISSED IN PART