

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 15-50642
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

January 20, 2016

Lyle W. Cayce
Clerk

TATE RYAN GRESHAM,

Plaintiff - Appellant

v.

VINCENT FISCHER; HOWARD E. WILLIAMS,

Defendants - Appellees

Appeal from the United States District Court
For the Western District of Texas
USDC No. 1:14-CV-739

Before REAVLEY, SMITH, and HAYNES, Circuit Judges.*

PER CURIAM:**

The judgment of the district court is affirmed for the reasons given by the judge. With the clear posture of what Officer Fischer saw on this occasion, his behavior was objectively reasonable. This is the qualified immunity officers are given by the law. With the benefit of possible view today of this affair, and

* Judge Haynes concurs in the judgment only.

** Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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with more thought by the law enforcement officials, a different conduct in some respect could be called for. Nonetheless, today we must say that Officer Fischer's conduct was objectively reasonable. It means that injured parties cannot argue and litigate about what happened or how they saw the same event.

When officers come upon a disturbance as did this officer after 1 a.m. at Aspen Heights Apartments, it is their duty to get the attention of the people then and determine what must be done to obtain peace and legal obedience. It is the right and duty for the officer to take control, to direct the movement or speech of those present as required to reach that peace and legal conduct.

Counsel and the Plaintiff here need to understand this. Judge Yeakel pointed out this law, as he did to explain why no claim can be made against the City of San Marcos or Chief of Police without evidence of any policy that was the moving force behind any constitutional violation.

AFFIRMED.