

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Steve Randall Smith,)	C/A: 0:11-2395-JFA
)	
Plaintiff)	
)	ORDER FOR
v.)	INTERLOCUTORY APPEAL
)	
Charles Grant; N.C. Murphy; T.J. Murphy;)	
and Alex Underwood;)	
)	
Defendants.)	
_____)	

By order entered on August 29, 2014, this court granted in part, and denied in part, defendants’ motion for summary judgment. Because that order rejected defendants’ defense of qualified immunity as to one of the two basic claims asserted in this action, defendants noticed an interlocutory appeal on that portion of the court’s ruling.

The plaintiff has now returned to this court seeking to have this court certify other issues for interlocutory appeal pursuant to 28 U.S.C. § 1292(b) so as to allow the Fourth Circuit Court of Appeals to review the entirety of this court’s ruling on the summary judgment motion. For the reasons which follow, the motion is granted.

As this court’s August 29, 2014 order indicates, the claims in this case arose out of an altercation between two race car drivers who were participating in the annual Shrine Race at the I-77 Speedway, a dirt track raceway in Chester, South Carolina. Plaintiff, who was one of the drivers involved in a collision during the race, and had a subsequent altercation with

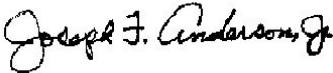
the other driver, sued four Chester County deputy sheriffs pursuant to 42 U.S.C. § 1983 alleging that they arrested him without probable cause and used excessive force during the course of his arrest. Plaintiff also asserted parallel state law claims for false arrest and battery. This court's order for summary judgment (ECF No. 102) removed two issues (the § 1983 claim for arrest without probable cause and the state law claim for false arrest).

The court has determined that its grant of summary judgment on the false arrest claims is a controlling question of law on that claim as to which there is substantial ground for a difference of opinion. The court also finds that an immediate appeal of the order granting summary judgment on the false arrest claim would materially advance the ultimate determination of this litigation. Moreover, this case is already before the United States Court of Appeals for the Fourth Circuit on the defendants' interlocutory appeal of the qualified immunity ruling on the other half of the case.

For all the foregoing reasons, the court hereby certifies for interlocutory appeal, pursuant to 28 U.S.C. § 2192, its order granting summary judgment to the defendants on the § 1983 claim for arrest without probable cause and the parallel state law claim for false arrest.

IT IS SO ORDERED.

October 9, 2014
Columbia, South Carolina


Joseph F. Anderson, Jr.
United States District Judge