

United States District Court  
Southern District of Texas

**ENTERED**

April 11, 2018

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION

DANNY GONZALES,

Plaintiff,

VS.

NUECES COUNTY, TEXAS, *et al*,

Defendants.

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CIVIL ACTION NO. 2:16-CV-00153

**ORDER GRANTING DEFENDANTS CHARLTON,  
MEDINA, MUNOZ AND VILLANUEVA'S  
MOTION FOR SUMMARY JUDGMENT**

On October 2, 2017, Defendants Sherri Charlton, John Medina, Joshua Villanueva, and Anthony Munoz filed their Motion for Summary Judgment (D.E. 80), seeking the dismissal of claims against them because they are entitled to qualified immunity. Defendants presented evidence that they had not violated Plaintiff's constitutional rights because they did not engage in excessive force in violation of Plaintiff's Fourteenth Amendment due process rights. Furthermore, they demonstrated that their conduct was not objectively unreasonable in light of clearly established law.

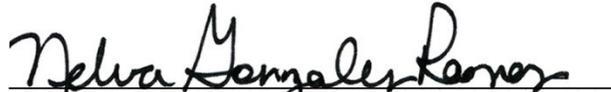
On February 9, 2018, Plaintiff's counsel withdrew from representing Plaintiff in this action. D.E. 92. Prior to doing so, counsel obtained extensions of time for Plaintiff to obtain a new attorney and/or to file a response to the summary judgment motion. The new deadline for response was set at April 7, 2018. D.E. 91. Because this deadline fell on a Saturday, the Court treated the deadline as April 9, 2018. Fed. R. Civ. P. 6(a)(3).

Plaintiff has failed to file a response to the motion and no new attorney has made an appearance on Plaintiff's behalf.

The Court notes that a summary judgment motion claiming qualified immunity places the burden of proof on the Plaintiff. *McClendon v. City of Columbia*, 305 F.3d 314, 323 (5th Cir. 2002). By his default, Plaintiff has failed to sustain his burden of proof. The Court has further reviewed Defendants' motion and supporting exhibits and finds that Defendants have demonstrated that they are entitled to qualified immunity.

For these reasons, the Court GRANTS Defendant Sherri Charlton, John Medina, Joshua Villanueva, and Anthony Munoz's Motion for Summary Judgment (D.E. 80) and DISMISSES all claims made against them in this action.

ORDERED this 11th day of April, 2018.

  
NELVA GONZALES RAMOS  
UNITED STATES DISTRICT JUDGE