

August 8, 2005

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No. 04-51072

JAMES T. HOOTEN,

Plaintiff - Appellee,

versus

CITY OF HONDO; ET AL.,

Defendants,

ANDY CHERNAK; DON BERGER,

Defendants - Appellants.

Appeals from the United States District Court
for the Western District of Texas
USDC No. 5:03-CV-1218

Before JOLLY, DENNIS, and OWEN, Circuit Judges.

PER CURIAM:*

After a study of the briefs and record and after oral argument, we are convinced in this very close case that the district court committed no reversible error in denying qualified immunity in the light of the factual disputes that remain. Accordingly, the appeal is

DISMISSED.

* Pursuant to 5th Cir. R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5th Cir. R. 47.5.4.