

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 93-4235
Summary Calendar

PAUL CAIN,

Plaintiff-Appellee,

versus

WAYNE COUGHRAN, Etc., ET AL.,

Defendants,

TOMMY WALKER,

Defendant-Appellant.

- - - - -
Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 90-CV-177
- - - - -
(January 7, 1994)

Before DUHÉ, EMILIO M. GARZA, and DeMOSS, Circuit Judges.

PER CURIAM:*

Texas Ranger Tommy Walker has appealed the district court's denial of his motion for summary judgment based on qualified immunity in this civil rights lawsuit alleging that Walker wrongly detained Deputy Sheriff Paul Cain and illegally searched Cain's car and office.

* Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

An order denying a motion for summary judgment based on a claim of qualified immunity in a 42 U.S.C. § 1983 action is immediately appealable if it based on an issue of law. See Mitchell v. Forsyth, 472 U.S. 511, 530, 105 S.Ct. 2806, 86 L.Ed.2d 411 (1985). However, if the claim of immunity is based on disputed issues of material fact, the district court's denial of a motion for summary judgment sought on the basis of immunity is not appealable. Feagley v. Waddill, 868 F.2d 1437, 1439 (5th Cir. 1989).

As Walker and Cain offer conflicting evidence concerning material facts related to the alleged detention and search, the district court's order is not appealable, and the appeal is DISMISSED.