

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 97-10806
Summary Calendar

MARVIN CRAIG MITCHELL,

Plaintiff-Appellee,

versus

A. STARK, Corporal; ROBISON, Officer,

Defendants-Appellants.

- - - - -
Appeal from the United States District Court
for the Northern District of Texas
USDC No. 5:96-CV-122-C
- - - - -

March 4, 1998

Before JOLLY, BENAVIDES and PARKER, Circuit Judges.

PER CURIAM:*

A. Stark and T.J. Robison appeal the district court's denial of their motions for summary judgment based on qualified immunity. They argue that Marvin Craig Mitchell's injury was de minimis, that their actions were not the direct and only cause of Mitchell's injury, and that their actions were objectively reasonable in that they were necessary to restrain Mitchell and prevent him from destroying evidence. Based on the summary judgment evidence, the district court determined a reasonable

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

jury could conclude that the actions of Stark and Robison in striking Mitchell while he was handcuffed and on the floor were excessive, directly resulted in Mitchell's injuries, and were objectively unreasonable. Stark and Mitchell have not shown that the district court erred in denying their motions for summary judgment.

AFFIRMED.