

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 06-1977**

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DAVID KEENEY; HAROLD L. SUMMERS, JR.; ROSCOE  
TUCKER,

Plaintiffs - Appellees,

versus

WILLIAM J. CHARNOCK, individually and as the  
Kanawha County Prosecuting Attorney; KANAWHA  
COUNTY COMMISSION,

Defendants - Appellants.

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Appeal from the United States District Court for the Southern  
District of West Virginia, at Charleston. Robert C. Chambers,  
District Judge. (2:05-cv-00390)

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Submitted: February 14, 2007

Decided: March 14, 2007

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Before NIEMEYER, GREGORY, and SHEDD, Circuit Judges.

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Affirmed by unpublished per curiam opinion.

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Johnnie E. Brown, Jeffrey B. Brannon, PULLIN, FLOWLER & FLANAGAN  
PLLC, Charleston, West Virginia; Mark A. Carter, DINSMORE & SHOHL,  
LLP, Charleston, West Virginia, for Appellants. Lonnie C. Simmons,  
DITRAPANO, BARRETT & DIPIERO, PLLC, Charleston, West Virginia, for  
Appellees.

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Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

David Keeney, Harold L. Summers, Jr., and Roscoe Tucker brought this action against Defendants William J. Charnock, individually and in his official capacity as the Kanawha County Prosecuting Attorney, and the Kanawha County Commission alleging they were terminated from their employment with the Kanawha County Prosecuting Attorney's Office in violation of 42 U.S.C. § 1983 (2000), the First Amendment, and Article X, Section 7 of the West Virginia Constitution. Defendants moved to dismiss Plaintiffs' complaint on the ground they are entitled to qualified immunity for Plaintiffs' terminations. The district court denied Defendants' motion to dismiss on the ground it was unable to determine whether Defendants were entitled to qualified immunity based on the record before it.\* We have reviewed the record and find no reversible error. Accordingly, we affirm for the reasons stated by the district court. See Keeney v. Charnock, No. 2:05-cv-00390 (S.D. W. Va. July 26, 2006). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED

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\*We read the district court's memorandum opinion and order as authorizing the Defendants to again seek dismissal on the grounds of qualified immunity following the completion of appropriate discovery.