

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 10-1903

TERRY A. GANDY, Individually and as Administrator of the
Estate of David Charles Gandy, deceased,

Plaintiff - Appellee,

v.

NEAL PATRICK ROBEY, c/o Stafford County Sheriff's Office,

Defendant - Appellant,

and

COMMONWEALTH OF VIRGINIA; CHARLES E. JETT, c/o Stafford
County Sheriff's Office; JOHN DOES 1-25; JANE DOES 1-25;
JOSEPH D. PITTMAN; DAVID M. ROHRER,

Defendants.

Appeal from the United States District Court for the Eastern
District of Virginia, at Alexandria. Leonie M. Brinkema,
District Judge. (1:10-cv-00065-LMB-TCB)

Submitted: February 24, 2011

Decided: March 21, 2011

Before TRAXLER, Chief Judge, and KING and DIAZ, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Jeff W. Rosen, Lisa Ehrich, PENDER & COWARD, PC, Virginia Beach, Virginia, for Appellant. Peter C. Grenier, Andre M. Gregorian, BODE & GRENIER, LLP, Washington, D.C., for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Neal Patrick Robey appeals a district court order denying his motion for summary judgment on the basis of qualified immunity, arguing that even under the version of the facts assumed by the district court, the law was not clearly established at the time of the acts underlying this suit that Robey's use of lethal force was unconstitutional. Because the district court considered only whether a factual dispute made summary judgment inappropriate, there is no legal issue that would support appellate jurisdiction. See Iko v. Shreve, 535 F.3d 225, 237 (4th Cir. 2008). We therefore dismiss Robey's appeal.

DISMISSED