

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-1428

MICHAEL CHIN; SWEET N SPICY FOODS,
INCORPORATED,

Plaintiffs - Appellants,

versus

MICHAEL V. WILHELM; UNITED STATES OF AMERICA,
Drug Enforcement Administration; STATE OF
MARYLAND, via its agency the City of Baltimore
Police,

Defendants - Appellees,

and

CITY OF BALTIMORE, MARYLAND; THE BALTIMORE
CITY POLICE DEPARTMENT,

Defendants.

Appeal from the United States District Court for the District of
Maryland, at Baltimore. Catherine C. Blake, District Judge.
(1:02-cv-01551-CCB; 1:04-cv-04054-CCB)

Submitted: December 6, 2006

Decided: December 29, 2006

Before WILLIAMS, MOTZ, and SHEDD, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Walter L. Blair, BLAIR & LEE, P.C., College Park, Maryland; C. William Michaels, Baltimore, Maryland, for Appellants. Rod J. Rosenstein, United States Attorney, Tarra DeShields-Minnis, Assistant United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Baltimore, Maryland, for Appellees.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Michael Chin and Sweet N Spicy Foods, Inc. brought this action, alleging claims under, inter alia, Bivens v. Six Unknown Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971), and the Federal Tort Claims Act ("FTCA").* The district court granted summary judgment in favor of Defendants Michael V. Wilhelm and the United States of America, and Chin and Sweet N Spicy now appeal.

The district court found that Wilhelm was entitled to summary judgment on Appellants' Bivens claims because he did not violate Chin's Fourth Amendment rights. The district court further found that the United States was entitled to summary judgment on Appellants' claims under the FTCA because Appellants failed to support an allegation of malice under Maryland law and failed to create an issue of triable fact on their claim for intentional infliction of emotional distress. Finally, the district court quashed a subpoena issued by Appellants to a Maryland state judge, concluding that the judge's testimony would not aid the development of facts relevant to Appellants' case.

We have reviewed de novo the record in this case, and we find no error in the district court's entry of summary judgment. We further find that the district court did not abuse its discretion

*Appellants' other claims were disposed of by the district court prior to its resolution of the Bivens and FTCA claims which are at issue on this appeal. Appellants do not appeal from these earlier rulings.

by quashing the subpoena. Accordingly, we affirm substantially on the reasoning of the district court. See 1:02-cv-1551-CCB (D. Md. Mar. 24, 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