

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 06-1505

ANTHONY B. GRIMM,

Plaintiff - Appellee,

versus

ROGER ROBINSON, Individually and as a Police
Officer of the Town of Vinton, Virginia,

Defendant - Appellant,

and

TOWN OF VINTON, VIRGINIA, a Municipal
Corporation; HERB COOLEY, Individually and as
Chief of Police of the Town of Vinton,
Virginia,

Defendants.

Appeal from the United States District Court for the Western
District of Virginia, at Roanoke. James C. Turk, Senior District
Judge. (7:05-cv-00068-JCT)

Submitted: January 26, 2007

Decided: March 1, 2007

Before WILKINSON and TRAXLER, Circuit Judges, and HAMILTON, Senior
Circuit Judge.

Affirmed in part; dismissed in part by unpublished per curiam
opinion.

Jim H. Guynn, Jr., GUYNN, MEMMER & DILLON, P.C., Roanoke, Virginia,
for Appellant. Neil E. McNally, KEY, TATEL & MCNALLY, P.C.,
Roanoke, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Officer Roger Robinson seeks to appeal the district court's denial of his motion for summary judgment. Anthony Grimm filed a complaint against Robinson and others pursuant to 42 U.S.C. § 1983 (2000), alleging that Robinson used excessive force while taking Grimm into custody, in violation of Grimm's Fourth Amendment rights. The Defendants moved for summary judgment on the merits and also asserted that Robinson was entitled to qualified immunity. The district court granted summary judgment in favor of all the Defendants except for Robinson. After thoroughly reviewing the record, we affirm in part and dismiss in part.

This court may exercise jurisdiction only over final orders, 28 U.S.C. § 1291 (2000), and certain interlocutory and collateral orders, 28 U.S.C. § 1292 (2000); Fed. R. Civ. P. 54(b); Cohen v. Beneficial Indus. Loan Corp., 337 U.S. 541 (1949). This court does not have jurisdiction "over a claim that a plaintiff has not presented enough evidence to prove that the plaintiff's version of events actually occurred, but [this court has] jurisdiction over a claim that there was no violation of clearly established law accepting the facts as the district court viewed them." Winfield v. Bass, 106 F.3d 525, 530 (4th Cir. 1997) (en banc). We find that to the extent Robinson is arguing that he should prevail, even if the facts are viewed in the light most favorable to Grimm, this court has jurisdiction, and we affirm the order of the district

court. To the extent Robinson is not arguing a point of law, and instead is claiming that there is no genuine issue of material fact, we dismiss the appeal as interlocutory. See Johnson v. Jones, 515 U.S. 304, 313 (1995) (“[T]he District Court’s determination that the summary judgment record . . . raised a genuine issue of fact . . . was not a ‘final decision’ within the meaning of [28 U.S.C. § 1291].”); see also Buonocore v. Harris, 65 F.3d 347, 360-61 (4th Cir. 1995).

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 IN PART;
DISMISSED IN PART