

UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

Garcia v. Orta

No. 21-50890 (5th Cir. Aug. 25, 2022) · No. 21-50890 · Decided August 25, 2022

SUMMARY

The Fifth Circuit held that San Antonio police officers were entitled to qualified immunity in a 42 U.S.C. § 1983 action alleging that Garcia was detained without probable cause based on false statements. The court concluded that video and audio evidence established that Garcia operated a motor vehicle and that the vehicle was in a public place under Texas law. The court reversed the district court and rendered judgment for the defendants.

CASE DETAILS

COURT	United States Court of Appeals for the Fifth Circuit
WRITING FOR THE COURT	Leslie H. Southwick; Smith; Wiener; Southwick
JURISDICTION	Federal
DECIDED	August 25, 2022
DOCKET	21-50890
DISPOSITION	reversed
PROCEDURAL POSTURE	Interlocutory appeal from the denial of summary judgment based on qualified immunity in a 42 U.S.C. § 1983 action alleging Fourth Amendment detention without probable cause.
STANDARD OF REVIEW	Summary-judgment and legal issues are reviewed de novo. On an interlocutory appeal from denial of qualified immunity, review is generally limited to issues of law, including whether facts accepted by the district court are legally material; the court generally lacks jurisdiction to reweigh whether a genuine factual dispute exists.
PRECEDENTIAL VALUE	Published Fifth Circuit opinion; binding circuit precedent to the extent not otherwise limited by subsequent authority.
PARTIES	Julio Orta, Zachary Sherron v. Roberto Garcia

TOPICS

- qualified immunity
- section 1983
- fourth amendment
- probable cause
- interlocutory appeal

PRACTICE AREAS

civil rights

constitutional law

qualified immunity

criminal procedure

appellate procedure

QUESTIONS PRESENTED

1. Whether the defendants forfeited qualified-immunity arguments not presented to the district court.
2. Whether the Fifth Circuit had interlocutory jurisdiction to consider whether video and photographic evidence blatantly contradicted Garcia's version of the facts.
3. Whether the officers were entitled to qualified immunity because the evidence established that Garcia operated a motor vehicle under Texas law.
4. Whether the vehicle was located in a public place under Texas law, thereby supplying probable cause for a driving-while-intoxicated charge.

HOLDINGS

1. Arguments not raised and pressed in the district court are forfeited on appeal, even when the plaintiff bears the burden of rebutting qualified immunity.
2. On an interlocutory appeal from denial of qualified immunity, the court may consider whether objective record evidence blatantly contradicts or utterly discredits the nonmoving party's version of events, but it may not ordinarily decide whether a genuine factual dispute exists.
3. The officers were entitled to qualified immunity because the record, viewed under the Scott standard, established facts supporting a reasonable belief that Garcia operated a motor vehicle while intoxicated.
4. Under the totality of the circumstances, Garcia operated a motor vehicle because he was in the driver's seat, the vehicle moved while he was there, and he applied the brakes, regardless of whether his personal effort caused substantial movement.
5. The driveway to the construction site was a public place under Texas law because it was publicly accessible and immediately adjacent to a public roadway.

KEY QUOTATIONS

"When opposing parties tell two different stories, one of which is blatantly contradicted by the record, so that no reasonable jury could believe it, a court should not adopt that version of the facts for purposes of ruling on a motion for summary judgment." (8)

"All we need to hold today, and we do, is that the recorded oral assertions that the vehicle's motor was on may not by themselves be enough to discredit Garcia's statements, but they can be considered in deciding whether other evidence sufficiently contradicts." (10)

FACTUAL BACKGROUND

Garcia was found asleep in the driver's seat of a vehicle in a driveway near a public roadway and was arrested for driving while intoxicated. The officers reported that Garcia was behind the wheel with the vehicle running, that the vehicle moved forward and stopped, and that Garcia exhibited signs of intoxication. Garcia disputed whether the vehicle was running, whether the keys were in the ignition, and whether he caused the vehicle to

move. The officers supplied incident reports and an affidavit to a magistrate, who set bond at \$75,000; Garcia remained detained for 505 days before the criminal case was dismissed.

PROCEDURAL HISTORY

Garcia was arrested for driving while intoxicated and held in pretrial detention for 505 days before the criminal case was dismissed. His initial civil action was dismissed as barred by the statute of limitations, but the Fifth Circuit reversed that dismissal as to his wrongful-legal-process claim. After remand, Garcia amended his complaint to add Officer Sherron. The magistrate judge recommended summary judgment for Officers Orta and Sherron on qualified-immunity grounds, but the district court found genuine disputes of material fact and denied summary judgment. The officers brought this interlocutory appeal.

DISPOSITION

reversed

REMAND INSTRUCTIONS

None. The court reversed and rendered judgment for the defendants.

CASES CITED

- Garcia v. San Antonio, Tex., 784 F. App'x 229, 232-33 (5th Cir. 2019)
- Joseph ex rel. Estate of Joseph v. Bartlett, 981 F.3d 319, 331 (5th Cir. 2020)
- Mitchell v. Forsyth, 472 U.S. 511, 530 (1985)
- Cole v. Carson, 935 F.3d 444, 452 (5th Cir. 2019) (en banc)
- Celanese Corp. v. Martin K. Eby Construction Co., 620 F.3d 529, 531 (5th Cir. 2010)
- Kelly v. Foti, 77 F.3d 819, 823 (5th Cir. 1996)
- Rollins v. Home Depot USA, 8 F.4th 393, 398 (5th Cir. 2021)
- Vincent v. City of Sulphur, 805 F.3d 543, 547 (5th Cir. 2015)
- Orr v. Copeland, 844 F.3d 484, 490 (5th Cir. 2016)
- Roy v. City of Monroe, 950 F.3d 245, 251 (5th Cir. 2020)
- Rodriguez v. Neeley, 169 F.3d 220, 222 (5th Cir. 1999)
- Bazan ex rel. Bazan v. Hidalgo County, 246 F.3d 481, 490 (5th Cir. 2001)
- Lemoine v. New Horizons Ranch & Center, Inc., 174 F.3d 629, 634 (5th Cir. 1999)
- Scott v. Harris, 550 U.S. 372, 378, 380-81 (2007)
- Curran v. Aleshire, 800 F.3d 656, 663-64 (5th Cir. 2015)
- Rich v. Palko, 920 F.3d 288, 295 (5th Cir. 2019)
- Hughes v. Rodriguez, 31 F.4th 1211, 1218 (9th Cir. 2022)
- McManemy v. Tierney, 970 F.3d 1034, 1038 (8th Cir. 2020)
- Coble v. City of White House, 634 F.3d 865, 868-69 (6th Cir. 2011)
- Mason v. Lafayette City-Parish Consolidated Government, 806 F.3d 268, 275 (5th Cir. 2015)

- Winfrey v. Rogers, 901 F.3d 483, 494 (5th Cir. 2018)
- Franks v. Delaware, 438 U.S. 154, 155-56 (1978)
- Malley v. Briggs, 475 U.S. 335, 344-45 (1986)
- Denton v. State, 911 S.W.2d 388, 389 (Tex. Crim. App. 1995) (en banc)
- Barton v. State, 882 S.W.2d 456, 459 (Tex. App.—Dallas 1994, no pet.)
- Dornbusch v. State, 262 S.W.3d 432, 433-34 (Tex. App.—Fort Worth 2008, no pet.)
- Partee v. Texas Department of Public Safety, 249 S.W.3d 495, 499 (Tex. App.—Amarillo 2007, no pet.)
- State v. Gerstenkorn, 239 S.W.3d 357, 358-59 (Tex. App.—San Antonio 2007, no pet.)