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Fourth Circuit Court of Appeals

(Note: You may access the court's opinion by clicking on the case name)

Court Affirms District Court's Denial of Summary Judgment Based on Qualified Immunity in Prisoner's 42 U.S.C. § 1983 Lawsuit Against Correctional Officers For Excessive Force in Removing Him From His Prison Cell

[Ussery v. Mansfield](#), ___ F.3d ___, 2015 WL 2372914 (4th Cir. May 19, 2015). Ussery was a prisoner at Bertie Correctional Institution in Windsor, North Carolina. Three correctional officers forcibly removed Ussery from his cell allegedly to search for a weapon there. He brought a 42 U.S.C. § 1983 lawsuit against the officers alleging excessive force in violation of the Eighth Amendment. Based on the case law applicable on the date of the use of force (July 9, 2008), *Norman v. Taylor*, 25 F.3d 1259 (4th Cir. 1994) (absent the most extraordinary circumstances, a plaintiff cannot prevail on an Eighth Amendment excessive force claim if his injury is de minimis) (author's note: *Norman* was later abrogated by *Wilkins v. Gaddy*, 559 U.S. 34 (2010)), the fourth circuit affirmed the district court's denial of summary judgment based on qualified immunity. The court noted that on the defendants' interlocutory appeal it could only review the district court's purely legal conclusion that the plaintiff could satisfy the *Norman* standard, but it could not review the district court's view that taking the facts in the light most favorable to the plaintiff, there was some injury to the plaintiff. The fourth circuit held that the evidence of the prisoner's injuries was more than de minimus; it showed that the prisoner's injuries resulted in lasting physical and emotional damage.