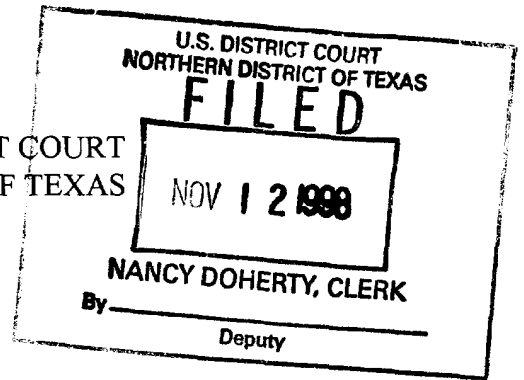


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ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION



OSCAR D. WILLIAMS, ET AL.,

Plaintiffs,

V.

KAUFMAN COUNTY, ET AL.,

Defendants.

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Civil Action No. 3:97-CV-0875-L

ENTERED ON DOCKET
PURSUANT
TO F. R. C. P. RULES
58 AND 79a.

ORDER

The findings, conclusions, and recommendation of the magistrate judge are before the court. After making an independent review of the pleadings, files and records in this case, the findings, conclusions and recommendation of the magistrate judge, the parties' objections to the magistrate's findings and recommendation, the court concludes that the findings and conclusions of the magistrate judge are correct. The court therefore orders as follows:

The findings, conclusions, and recommendation of the magistrate judge are adopted by the court, and that the objections filed by the parties are **OVERRULED**.

Plaintiffs' Motion for Summary Judgment is **GRANTED**, to the extent that it seeks a declaration that the Eleventh Amendment and sovereign immunity do not bar suit against Defendants under 42 U.S.C. § 1983. Plaintiffs' Motion for Summary Judgment is **DENIED** in all other respects.

Defendants' Motion for Summary Judgment is **GRANTED** as to the following claims: Plaintiffs' excessive force claim under 42 U.S.C. § 1983, Plaintiffs' claim for damages resulting from an alleged violation of the Texas Constitution, and Plaintiffs' state law claims for assault, battery, intentional infliction of emotional distress, and civil conspiracy. Defendants' Motion for

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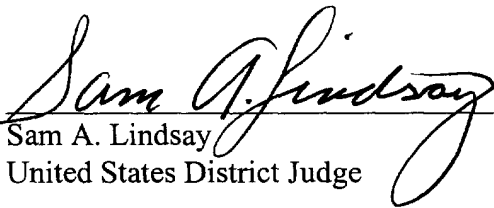
Summary Judgment is also **DENIED** with respect to Plaintiffs' claim for declaratory relief regarding Defendants' alleged violations of Article I, Section 9 of the Texas constitution.

As the United States Magistrate Judge correctly noted, Defendants did not raise the following issues in their motion for summary judgment: Plaintiffs' section 1983 claims based upon an alleged illegal strip search, unlawful detention, invasion of privacy, and verbal harassment based on race. Defendants did not properly address these issues by raising them for the first time in their reply. Based upon the applicable law and the Magistrate Judge's analysis, the court has determined that summary judgment may be proper with regard to some of these claims. Therefore, Defendants are hereby directed to file a second motion for summary judgment which addresses these claims by November 30, 1998. Plaintiffs shall file their response to Defendants' summary judgment motion by December 21, 1998. Defendants' reply, if any, shall be filed by January 4, 1999. The court will accept no other pleadings regarding Defendants' Second Motion for Summary Judgment.

The court further directs the parties to specifically address the following issue in their briefing on Defendants' Second Motion for Summary Judgment: whether verbal harassment based on race constitutes a valid cause of action that can be brought under 42 U.S.C. § 1983.

The court also notes that both Plaintiffs and Defendants were not totally forthcoming in the presentation of some of the summary judgment issues and evidence. When this occurs, it unnecessarily delays the proper administration of justice. The court therefore expects the parties to address the remaining summary judgment issues with complete candor.

SO ORDERED this 12th day of November, 1998.



Sam A. Lindsay
United States District Judge