

[PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

FILED  
U.S. COURT OF APPEALS  
ELEVENTH CIRCUIT  
September 13, 2002  
THOMAS K. KAHN  
CLERK

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No. 01-11698  
Non-Argument Calendar

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D.C. Docket No. 00-00838-CV-A-N

BRYAN GRADY,

Plaintiff-Appellant,

versus

MICHAEL W. HALEY, TOMMY HERRING,  
ET AL.,

Defendants-Appellees.

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No. 01-11807  
Non-Argument Calendar

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D.C. Docket No. 98-00274-CV-T-N

CALVIN NIX,

Plaintiff-Appellant,

versus

RON JONES, MICHAEL HALEY, ET AL.,

Defendants-Appellees.

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No. 01-12225  
Non-Argument Calendar

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D.C. Docket No. 94-00676-CV-C-N

TONY FOUNTAIN,

Plaintiff-Appellant,

versus

DANIEL R. TALLEY, JESSE SMITH, Lt.,  
(Farm Supervisor), ET AL.,

Defendants-Appellees.

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No. 01-12226  
Non-Argument Calendar

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D.C. Docket No. 96-00854-CV-D-N

HADJI HICKS,

Plaintiff-Appellant,

versus

LEO ALLEN, Sergeant, OFFICER YEILDING,  
COI, ET AL.,

Defendants-Appellees.

No. 01-12227  
Non-Argument Calendar

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D.C. Docket No. 99-01207-CV-D-N

KENNETH BOGGAN,

Plaintiff-Appellant,

versus

MICHAEL W. HALEY, TOMMY HERRING,  
ET AL.,

Defendants-Appellees.

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Appeals from the United States District Court for the  
Middle District of Alabama

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**(September 13, 2002)**

ON PETITION FOR REHEARING AND  
SUGGESTION OF REHEARING EN BANC

Before EDMONDSON, Chief Judge, WILSON and HILL, Circuit Judges.

PER CURIAM:

The Petition for Rehearing and Suggestion for Rehearing En Banc is pending before this court.

On December 28, 2001, the court ordered that this Petition for Rehearing and Suggestion for Rehearing En Banc be suspended pending the decision of the Supreme Court in the case of *Larry Hope v. Mark Pelzer*, 240 F.3d 975 (11<sup>th</sup> Cir.

2001), then on petition for certiorari.

In each of these cases, the panel's judgment would have affirmed the judgment of the district court upon the binding precedent of *Hope v. Pelzer*.

The Supreme Court has now decided *Hope v. Pelzer* with a full opinion, reversing the judgment of the Circuit Court of Appeals.

We find that the decision of the Supreme Court controls the issue in each of these cases to the end that the judgment in each case by the district court, dismissing defendants upon a finding that they are entitled to qualified immunity, is erroneous.

Therefore, the panel grants the petition for rehearing and, upon the authority of *Hope v. Pelzer*, 536 U.S.\_\_\_\_ (2002), the judgment of the district court is REVERSED. Each case is REMANDED.