STATE OF MICHIGAN

COURT OF APPEALS

JAMES E. BEASLEY, SR., and
JAMES BEASLEY, JR.,

Plaintiffs–Appellants,

v

BRIAN RADFORD, J. S. KEEFER,
NANCY SCHUETTE,
JOHN W. TANNER, III, and
DANIEL GILLESPIE,

Defendants–Appellees.

UNPUBLISHED
July 2, 1996

No. 175823
LC No. 93-324080

Before: O'Connell, P.J., and Gribbs and T. P. Pickard,* JJ.

PER CURIAM.

Plaintiffs appeal as of right from the trial court's decision granting summary disposition to defendants on the basis of governmental immunity on plaintiffs' claims for violation of their First, Fourth and Fourteenth Amendment rights under the United States and Michigan Constitutions, through 42 USC § 1983, together with state law claims, arising out of the ejection of James E. Beasley, Sr. (Senior), from the 34th District Court building, and the prior arrest of James Beasley, Jr. (Junior), for fleeing and eluding a police officer.[1] We affirm.

During pre-trial proceedings on Junior's charge, Senior attempted to openly advise Junior in court, and was loudly and openly critical of the arresting officer (Gillespie) and the prosecutor (Tanner). Senior, who was in a wheelchair and positioned in the general seating area, was also attempting to tape record the hearing without permission and repeatedly called out loudly to Junior, who was standing at a podium. The court administrator (Schuette), repeatedly asked Senior to lower his voice and refrain from these outbursts. Because Senior refused, court officer (Radford) removed Senior from the building. Senior attempted to reenter, Radford stopped him, and the wheelchair became caught, allegedly causing Senior to fall out of the chair. Senior then asked a police officer on court duty

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* Circuit judge, sitting on the Court of Appeals by assignment.

(Keefer), to file a police report concerning Radford's actions. Keefer allegedly refused to do so. Instead, Senior was arrested and charged with disorderly conduct.

Plaintiffs argue that the trial court erred in summarily dismissing defendants Radford, Tanner, and Schuette on the basis of governmental immunity where these individuals were not engaged in functions to which immunity attaches.

When reviewing a motion for summary disposition brought under MCR 2.116(C)(7), this Court considers all documentary evidence submitted by the parties. *Codd v Wayne County*, 210 Mich App 133, 134; 537 NW2d 453 (1995). All well pled allegations are accepted as true and construed in favor of the nonmoving party. *Id.* In order to survive a motion brought under this rule, the plaintiff must allege facts warranting the application of an exception to governmental immunity. *Id.* In reviewing claims brought under § 1983, this Court must adhere to federal standards of review. See *Guider v Smith*, 431 Mich 559, 565 n 5; 431 NW2d 810 (1988). Specifically, where these specific defendants were performing discretionary functions attendant to their positions as government officials, the relevant inquiry is whether their conduct violated clearly established constitutional standards which were, or should have been, known to these defendants at the time. *Id.* at 568-569.

Plaintiffs allege that they were denied their First Amendment right to speak freely in a public courthouse, as well as their Fourteenth Amendment right to petition the government for redress of grievances, when Senior was not allowed to speak to Junior during courtroom proceedings, and when Senior was not allowed to reenter the courthouse. We disagree. Because plaintiffs' actions were disruptive and disorderly, their speech was not constitutionally protected and, therefore, these defendants' actions did not violate any clearly established constitutional standards. See *Cohen v California*, 403 US 15, 29; 91 S Ct 1780; 29 L Ed 2d 284 (1971). Similarly, we find that Senior's Fourth Amendment right against unreasonable seizures was not violated when his wheelchair was pushed out of the building because a reasonable person under the circumstances would have believed he was free to go. *Berkemer v McCarty*, 468 US 420, 425; 104 S Ct 3138; 82 L Ed 2d 317 (1984).

Therefore, we conclude that plaintiffs' claims against Radford, Tanner, and Schuette brought under 42 USC § 1983 were properly dismissed. However, because defendants' actions were discretionary, we affirm on the basis of qualified immunity, not absolute immunity. See *Guider*, *supra, at 568*. This Court will not reverse a lower court when it reached the right result for the wrong reason. *Mull v Equitable Life Assurance Soc*, 196 Mich App 411, 420; 493 NW2d 447 (1992).

Plaintiffs also argue that the trial court erred in dismissing their claims against defendants Radford and Keefer on the basis of absolute immunity. Plaintiffs claim that, as police officers,

these defendants were entitled to only qualified immunity. We agree. However, as noted above, will not reverse on that basis. *Mull, supra* p 420.

Affirmed.

/s/ Peter D. O'Connell
/s/ Roman S. Gribbs
/s/ Timothy P. Pickard

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[1] Plaintiffs phrase their question presented to encompass only the trial court's decision regarding their § 1983 claims. Therefore, we will limit our review solely to plaintiffs' claims under 42 USC § 1983. See *Michael Meagher v McNeely & Lincoln, Inc*, 212 Mich App 154, 156; 536 NW2d 851 (1995).