



briefly stopped it and conducted a visual search. This incident is also the subject of one of the counts in the suit.

The district court granted summary judgment on the ground that exigent circumstances justified the warrantless entry and the other claims were also without merit. We agree and affirm.

Highly condensed, the facts were as follows. Officers of the Town of Erwin received a tip from a reliable informant that the fugitive was in the dwelling. They proceeded to put the dwelling under surveillance. The informant called back to say the fugitive had left. Since the Town officers had checked out the only vehicles seen leaving the dwelling, they concluded that this information was erroneous and that the fugitive, therefore, was still inside.

The Town officers called the Sheriff pursuant to the policy of the Town when confronted with a search situation. The Sheriff himself arrived on the scene. Two or three requests were made of the occupants of the dwelling to permit entry, but those requests were refused. The Sheriff then sought advice from the County's chief prosecutor as to whether sufficient exigent circumstances existed to justify an entry without a search warrant. The Sheriff advised the prosecutor that the officers believed the fugitive was in the house, that he had a history of violence, and that the officers suspected that the fugitive had the occupants of the dwelling under duress.

The prosecutor advised that an entry was justified but that the search should be limited to only those areas where a person could be found. The officers then entered over the objections of the occupants, and promptly left after a brief search observing these criteria. The liberty of the occupants was not restrained in any way during the search. They could have left, had they wished.

All of this took about 45 minutes.

We agree with the district court that no violation of the plaintiffs' constitutional rights arose out of these events. The district court filed an extensive, detailed opinion which may be found at *Ferguson v. Unicoi County*, No. 2:03-CV-360, 2005 WL 2407664 (E.D. Tenn. Sept. 29, 2005), with which we substantially agree.

The district court held that a brief *Terry* stop of the car was justified, because the police had a reasonable suspicion that the fugitive might be hiding inside. *See generally Terry v. Ohio*, 392 U.S. 1, 22-23 (1968), *Lavender v. City of Blue Ash*, No. 05-3058, 2006 WL 126710 (6th Cir. Jan. 17, 2006).

The district court further held that exigent circumstances justifying the search existed because the officers had an objectively reasonable belief that a dangerous fugitive was in the dwelling and that the occupants might be under duress and in danger. *Cf. Brigham City v. Stuart*, 126 S.Ct. 1943, 1945 (2006). The search was conducted in the least intrusive manner possible under the circumstances.

In addition, the district court held that the evidence disclosed no objectionable policy of either of the municipal defendants.

The district court also held that even if there had been a constitutional violation, all of the individual defendants had qualified immunity.

The issues of standing raised by Defendants/Appellees have no bearing on the outcome of this court's decision. Therefore, it is unnecessary to decide the issues of standing.

The Appellants allude to some factual assertions that the district court opinion did not discuss. We do not believe that these factual assertions raised any issues of *material* fact. *See Fed. R. Civ. P. 56; Street v. J.C. Bradford & Co.*, 886 F.2d 1472, 1479 (6th Cir. 1989).

Therefore, the judgment of the district court is **AFFIRMED**.