

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 01-50030
Summary Calendar

ROGER R. CAVAZOS; RACHEL A. CAVAZOS,

Plaintiffs-Appellants,

versus

AL PHILIPPUS, Chief of Police,
Individually, and in his Official
Capacity; CITY OF SAN ANTONIO,

Defendants-Appellees.

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Appeal from the United States District Court
for the Western District of Texas
USDC No. SA-00-CV-304
- - - - -
September 7, 2001

Before JONES, SMITH, and EMILIO M. GARZA, Circuit Judges.

PER CURIAM:*

Roger Cavazos, a San Antonio police officer, and his wife Rachel filed this civil action against Chief of Police Al Philippus and the City of San Antonio, alleging that Roger Cavazos had been suspended from the police force in violation of his due process, equal protection, and First Amendment rights, as well as various state laws. Cavazos alleged that he was suspended in retaliation for his having filed a criminal

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

complaint against a fellow officer, after the fellow officer allegedly assaulted Cavazos; Cavazos had been carrying on an affair with the officer's wife. Cavazos appeals from the district court's granting of a motion for summary judgment filed by the defendants.

On appeal, the Cavazos have abandoned any claims made under state law and any claims made by Rachel Cavazos, because they have failed to argue such claims in their appellate brief. See Yohey v. Collins, 985 F.2d 222, 224-25 (5th Cir. 1993); FED. R. APP. P. 28(a)(9).

The plaintiffs effectively abandoned claims that the defendants' actions violated Roger Cavazos' due process and equal protection rights by failing to argue those claims in the plaintiffs' opposition to the defendants' summary-judgment motion. See Hargrave v. Fibreboard Corp., 710 F.2d 1154, 1164 (5th Cir. 1983). The district court in any event did not err in granting summary judgment as to those claims. See FED. R. CIV. P. 56(c), (e); Celotex Corp. v. Catrett, 477 U.S. 317, 325 (1986). Cavazos failed to demonstrate that either his substantive or procedural due process rights were violated because he failed to show that he was deprived of a constitutionally protected property right. See State of Texas v. Lollar, 142 F.3d 813, 818 (5th Cir. 1998); Bryan v. City of Madison, 213 F.3d 267, 274 (5th Cir. 2000), cert. denied, 121 S. Ct. 1081 (2001). Cavazos' equal protection claim was also meritless because he has failed to alleged specifically how "similarly situated" persons were

treated differently from him. See Mayaab v. Johnson, 168 F.3d 863, 870 (5th Cir. 1999).

Finally, the district court did not err in granting summary judgment as to Cavazos' First Amendment free speech claim. Cavazos failed to demonstrate that his complaint against the fellow officer was speech that involved matters of "public concern." See Harris v. Victoria Indep. Sch. Dist., 168 F.3d 216, 221 (5th Cir.), cert. denied, 528 U.S. 1022 (1999).

The judgment of the district court is AFFIRMED.