

June 16, 2006

Charles R. Fulbruge III
Clerk

IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No. 05-40041
Summary Calendar

ELLEN FOUNTAIN,

Plaintiff-Appellant,

versus

BROOKLAND INDEPENDENT SCHOOL DISTRICT;
JOHN LYNCH,

Defendants-Appellees.

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 1:03-CV-488

Before REAVLEY, DAVIS and PRADO, Circuit Judges.

PER CURIAM:*

The judgment of the district court is affirmed for these reasons:

1. An at-will employee has no property right to employment. The school district did provide a procedure for Fountain to complain of her termination, but she chose not to file a grievance. There was no due process violation.

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 R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

2. There was no allegation or evidence of any custom or policy of the school district that violated federal law.
3. Fountain was terminated before her speech to the board, and her speech was stopped because she was discussing that termination. Her telling Lynch of her intention to speak to the Board was procedural and unrelated to public concern by her own admission. There was no free speech deprivation. And no legal claim is raised by the evidence against Lynch.
4. Plaintiff's motion to withdraw admissions, filed over four months after failure to make timely denial and after discovery was completed, was permissibly denied by the court.

AFFIRMED.