

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

No. 17-40670
Summary Calendar

United States Court of Appeals
Fifth Circuit

FILED

August 3, 2018

Lyle W. Cayce
Clerk

KEITH REDBURN,

Plaintiff - Appellant

v.

CITY OF VICTORIA,

Defendant - Appellee

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 6:15-CV-32

Before WIENER, DENNIS, and SOUTHWICK, Circuit Judges.

PER CURIAM:*

This appeal arises from the district court's award of attorney's fees and costs to the City of Victoria, Texas, in a lawsuit between the City and Keith Redburn over the City's use of Redburn's private property to drain storm-sewer refuse. The district court awarded attorney's fees and costs to the City based

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

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on its determination that the City was entitled to summary judgment on all claims.

However, a panel of this court partially vacated the district court's order of summary judgment and remanded for further proceedings below. *See Redburn v. City of Victoria*, No. 17-40369, 2018 WL 3649650, at *1, 7 (5th Cir. Aug. 1, 2018). Accordingly, we now VACATE the district court's award of attorney's fees and costs to the City and REMAND for further proceedings consistent with the court's determination on the merits.