

UNITED STATES COURT OF APPEALS
For the Fifth Circuit

No. 92-2821
Summary Calendar

MARGARITO ROCHA,

Plaintiff-Appellant,

VERSUS

TEXAS ALCOHOLIC BEVERAGE, ET AL.,

Defendants-Appellees.

Appeal from the United States District Court
For the Southern District of Texas

CA H 91 2223

March 18, 1993

Before HIGGINBOTHAM, SMITH, and DeMOSS, Circuit Judges.

PER CURIAM:*

We have carefully reviewed the briefs, reply brief, record excerpts, and the relevant portions of the record; and we concur fully with the finding and ruling set forth by the trial judge in his order of October 2, 1992, overruling plaintiff's motion to reconsider the order of dismissal previously entered by the trial court, as follows:

The plaintiff in this case, however, has failed to identify the source of any property interest in his employment. Under Texas law,

*Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the Court has determined that this opinion should not be published.

absent an express contractual provision, employees are employed at will. Valone v. Agip Petroleum, 705 S.W.2d 751, 765 (Tex. App.-- Houston 1986, writ ref'd n.r.e.); Berry v. Doctor's Health Facilities, 715 S.W.2d 60, 61 (Tex. App.--Dallas 1986, n.w.h.); Reynolds Mfg. Co. v. Mendoza, 644 S.W.2d 536, 539 (Tex. App.--Corpus Christi 1982, writ ref'd n.r.e.). Plaintiff has alleged no basis upon which the term of his employment could be found to be anything other than at will; therefore, he has failed to establish the existence of a property interest in his employment.

Absent such property interest in his continued employment, appellant has no basis for a claim under 42 U.S.C. § 1983 for deprivations of rights, privileges, and immunities under the due process and equal protection clauses of the Fourteenth Amendment to the Constitution of the United States; and we AFFIRM the order of dismissal entered by the trial judge.