IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 94-20174
Conference Calendar

HOWARD REYNOLDS,

Plaintiff-Appellant,

versus

REGION IV EDUCATIONAL SERVICE CENTER
AND DR. SHERRIE SOUTHERN,

Defendants-Appellees.

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Appeal from the United States District Court
for the Sourthern District of Texas
USDC No. CA-H-92-2955

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(November 15, 1994)

Before JONES, DUHÉ, and PARKER, Circuit Judges.

PER CURIAM:*

This Court reviews a grant of summary judgment de novo. Abbott v. Equity Group, 2 F.3d 613, 618 (5th Cir. 1993), cert. denied, 114 S. Ct. 1219 (1994). Summary judgment is proper if the moving party establishes that there is no genuine issue of material fact and that it is entitled to judgment as a matter of law. Celotex Corp. v. Catrett, 477 U.S. 317, 322, 106 S. Ct. 2548, 91 L. Ed. 2d 265 (1986). If the moving party satisfies its burden, the nonmoving party must identify specific evidence in the summary judgment record demonstrating that there is a

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* 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 Pursuant to that Rule, the Court has determined that this opinion should not be published.

material fact issue for trial. Anderson v. Liberty Lobby, 477 U.S. 242, 249, 106 S. Ct. 2505, 91 L. Ed. 2d 202 (1986). The substantive law will identify which facts are material. Anderson, 477 U.S. at 248. On appeal from summary judgment, this Court examines the evidence in light most favorable to the nonmoving party. Salas v. Carpenter, 980 F.2d 299, 304 (5th Cir. 1992).

The defendants presented evidence that Reynolds was an "at will" employee and was terminated due to his failure to comply with departmental procedure. Reynolds responded with a personal affidavit admitting the facts relating to his termination, but denying that they were adverse to departmental procedure, and alleging that his termination was due to statements he made about Dr. Southern to another supervisor. Reynolds also presented an affidavit of a co-worker attesting to facts relating to an incident that served as the basis of Reynolds' termination. Reynolds did not present evidence that his statements were the reason for his termination or that his actions complied with departmental procedure. Reynolds' unsubstantiated assertions of First Amendment violations are not summary judgment evidence. See Celotex, 477 U.S. at 324. Because Reynolds admitted the facts supporting his termination without evidence of a material fact issue for trial, the defendants are entitled to summary judgment as a matter of law. See id.

Although Reynolds did not previously raise any claims under the specific provisions of the Texas Constitution cited in his notice of appeal, he now presents an argument under another

unpresented provision, Article 1, § 8. This Court need not address issues not considered by the district court. "[I]ssues raised for the first time on appeal are not reviewable by this [Court] unless they involve purely legal questions and failure to consider them would result in manifest injustice." Varnado v. Lynaugh, 920 F.2d 320, 321 (5th Cir. 1991). Reynolds has not demonstrated that manifest injustice will occur if the Court declines to address his argument under the Texas Constitution.

AFFIRMED.