

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

United States Court of Appeals
Fifth Circuit

FILED

November 11, 2011

No. 10-11064
Summary Calendar

Lyle W. Cayce
Clerk

TERESA BENNETT,

Plaintiff-Appellant

v.

CITY OF DALLAS,

Defendant-Appellee

Appeal from the United States District Court
for the Northern District of Texas
USDC No. 3:10-CV-986

Before GARZA, SOUTHWICK, and HAYNES, Circuit Judges.

PER CURIAM:*

The district court granted a motion to dismiss based on our opinion that was subsequently vacated by this court sitting en banc. We VACATE and REMAND for reconsideration.

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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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

No. 10-11064

In concluding that the plaintiff failed to state a claim upon which relief could be granted, the district court relied on our opinion in *Frame v. City of Arlington*, 616 F.3d 476 (5th Cir. 2010). After the district court entered judgment, that opinion was vacated as a result of the grant of a petition for rehearing en banc. *Frame v. City of Arlington*, 632 F.3d 177 (5th Cir. 2011). The court sitting en banc reached conclusions that were contrary to those in the 2010 panel opinion on which the district court relied. *Frame v. City of Arlington*, 637 F.3d 215 (5th Cir. 2011) (en banc).

We remand to permit the district court to reconsider its ruling on the defendant's motion to dismiss in light of our en banc opinion in *Frame*.

VACATED and REMANDED.