

United States Court of Appeals  
for the Fifth Circuit

United States Court of Appeals  
Fifth Circuit

**FILED**

April 26, 2021

Lyle W. Cayce  
Clerk

---

No. 20-50916  
Summary Calendar

---

LANE SMITH; JENNIFER TAYLOR-SMITH,

*Plaintiffs—Appellants,*

*versus*

CARLA CLARK, *Individually,*

*Defendant—Appellee.*

---

Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 5:19-CV-675

---

Before HAYNES, WILLETT, and HO, *Circuit Judges.*

PER CURIAM:\*

Lane Smith and Jennifer Taylor-Smith appeal the district court's dismissal of their First Amendment retaliation claim under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), against Carla Clark. We have not recognized a *Bivens* claim in the First

---

\* Pursuant to 5TH CIRCUIT RULE 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIRCUIT RULE 47.5.4.

No. 20-50916

Amendment retaliation context, and we need not decide this issue here. Because Smith and Taylor-Smith failed to meaningfully allege the claim or to plead enough facts to establish its facial plausibility, we AFFIRM the district court's dismissal. *See Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (“A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged . . . . Where a complaint pleads facts that are merely consistent with a defendant's liability, it stops short of the line between possibility and plausibility of entitlement to relief.” (internal quotation marks and citation omitted)).