United States Court of Appeals for the Fifth Circuit

United States Court of Appeals
Fifth Circuit
FILED
April 30, 2026
Lyle W. Cayce
Clerk

No. 25-40395

JOYCE HILTS,

Plaintiff—Appellant,

versus

CITY OF PORT ARTHUR,

Defendant—Appellee.

Appeal from the United States District Court
for the Eastern District of Texas
USDC No. 1:24-CV-238

Before JONES, CLEMENT, and RICHMAN, *Circuit Judges*.

PER CURIAM:[*]

Appellant Joyce Hilts appeals the district court's dismissal with prejudice of her § 1983 claims against her former employer, the City of Port Arthur, and denial of leave to amend. We affirm.

[*] This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

I

We take the facts alleged in the complaint as true in considering this motion to dismiss.[1] Appellant Joyce Hilts worked for the City of Port Arthur in the Water Purification Division of the City's Utility Operations Department beginning in September of 2017. In July of 2021, Hilts had a "disagreement" with a coworker that led to her supervisor Jeff Wyble giving her a two-week suspension and a probationary final warning.

Hilts signed a "Last Chance Agreement Disciplinary Return to Work Agreement" to keep her job. By signing the agreement, Hilts agreed to "[r]emain in compliance will all sections of the City of Port Arthur [P]ersonnel . . . Policies" and acknowledged "[t]hat any violation of the City of Port Arthur Personnel Policy or repeat of the behaviors and actions giving rise to this, and related, disciplinary action will result in termination."

One day in February of 2022, Hilts fell and injured herself when arriving to work. Hilts felt she needed to leave work, so she called her supervisor Garrett Elizondo. Elizondo agreed and instructed her to find a coworker to replace her. Hilts found the coworker to replace her. However, Elizondo later stated he had not yet approved the emergency substitution. Elizondo and Wyble together decided to fire Hilts for being absent from duty without permission. Hilts was informed of her termination on April 1, 2022.

Hilts alleges the "termination could not occur but for good cause in violation of the City's rules and approval of the City Manager, whose impending decision could be challenged" through an appeals process. Hilts appealed the decision to a five-person committee at a hearing on June 17, 2022. At the hearing, Human Resources Director Trameka Williams did not

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[1] *Patterson v. MacDougall*, 506 F.2d 1, 3 (5th Cir. 1975).

allow Hilts to call three rebuttal witnesses because Hilts had not given advance notice those witnesses would be called. Hilts further alleges "[t]he City enlarged and altered the reasons for firing" her at the hearing.

After her appeal was denied, Hilts sued the City of Port Arthur alleging municipal liability under 42 U.S.C. § 1983 because of substantive and procedural due process violations. The City moved to dismiss her claims. Both parties included several attachments to their motions and responses. The district court granted the City's motion and dismissed Hilts' claims with prejudice, denying her leave to amend. Hilts timely appealed.

II

"We review de novo a district court's grant or denial of a Rule 12(b)(6) motion to dismiss, 'accepting all well-pleaded facts as true and viewing those facts in the light most favorable to the plaintiff.'"[2] "Under this standard '[d]ismissal is appropriate when the plaintiff has not alleged enough facts to state a claim to relief that is plausible on its face and has failed to raise a right to relief above the speculative level.'"[3] To state a claim for municipal liability, the plaintiff "must plead facts that plausibly establish that '(1) an official policy (2) promulgated by the municipal policymaker (3) was the moving force behind the violation of a constitutional right.'"[4]

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[2] *Hines v. Alldredge*, 783 F.3d 197, 200-01 (5th Cir. 2015) (quoting *True v. Robles*, 571 F.3d 412, 417 (5th Cir. 2009)), *abrogated on other grounds as recognized by*, *Hines v. Quillivan*, 982 F.3d 266, 271 (5th Cir. 2020).

[3] *Shakeri v. ADT Sec. Servs. Inc.*, 816 F.3d 283, 290 (5th Cir. 2016) (alteration in original) (internal quotation marks omitted) (quoting *True*, 571 F.3d at 417).

[4] *St. Maron Props., L.L.C. v. City of Houston*, 78 F.4th 754, 760 (5th Cir. 2023) (quoting *Peña v. City of Rio Grande City*, 879 F.3d 613, 621 (5th Cir. 2018)).

Hilts alleges constitutional violations of her substantive due process and procedural due process rights. We consider each in turn.

A

Hilts contends that her termination deprived her of her substantive due process rights. The district court held, and the City argues, that this claim is time-barred. "A statute of limitations may support dismissal under Rule 12(b)(6) where it is evident from the plaintiff's pleadings that the action is barred and the pleadings fail to raise some basis for tolling or the like."[5] "The statute of limitations for a suit brought under § 1983 is determined by the general statute of limitations governing personal injuries in the forum state."[6] In Texas, the statute of limitations for personal injury claims is "two years after the day the cause of action accrues."[7]

"[U]nder federal law, a claim accrues and the limitations period begins to run the moment the plaintiff becomes aware that he has suffered an injury or has sufficient information to know that he has been injured."[8] Hilts received her Termination Notice on April 1, 2022. She filed suit on June 18, 2024, more than two years later. Her substantive due process claim based on her termination is therefore untimely.

Hilts resists this conclusion by arguing that her complaint "alleges that the April 1, 2022 notice was not a final termination, but rather a recommendation subject to the City's mandatory appeal process." She

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[5] *Jones v. Alcoa, Inc.*, 339 F.3d 359, 366 (5th Cir. 2003).

[6] *Piotrowski v. City of Houston*, 237 F.3d 567, 576 (5th Cir. 2001).

[7] Tex. Civ. Prac. & Rem. Code Ann. § 16.003(a).

[8] *King-White v. Humble Indep. Sch. Dist.*, 803 F.3d 754, 762 (5th Cir. 2015) (internal quotation marks omitted) (quoting *Spotts v. United States*, 613 F.3d 559, 574 (5th Cir. 2010)).

argues her supervisor, Wyble, could only issue a recommendation for her termination that then needed to be approved by the City Manager under the City's Personnel Policy, and this approval did not occur until after the appeal process concluded on June 24, 2022. However, the City attached the Personnel Policy to its motion to dismiss, and Hilts attached the Termination Notice to her response. We will consider these documents because they are "documents that are referred to in the plaintiff's complaint and are central to the plaintiff's claim."[9]

The Personnel Policy establishes under the "Dismissal" section that "[a]n employee may be *immediately* dismissed from the service of the City on the initiation of dismissal procedures by the Department Head and with the approval of the Assistant City Manager and City Manager." The Termination Notice references that Wyble provided only a "*recommendation* for Ms. Hilts' termination" on March 15, 2022. However, this recommendation was subsequently approved by the Department Head on March 17, 2022, and then approved by the City Manager on March 28, 2022. This satisfied the procedure contemplated by the Personnel Policy, making the Termination Notice a final dismissal immediately effective upon its receipt by Hilts on April 1, 2022.

Hilts points to another provision of the Personnel Policy that reads "Termination shall not be effective for at least twenty-one (21) days after mailing or delivering to the employee notice of termination." However, this provision is for "Injury Leave" and does not apply to Hilts. Even if it did, Hilts' claim would still be untimely as it was filed more than two years and twenty-one days after April 1, 2022.

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[9] *Scanlan v. Tex. A&M Univ.*, 343 F.3d 533, 536 (5th Cir. 2003).

Hilts further argues that the availability of the appeal process suspended the termination's effectiveness, such that "the termination cannot be deemed final until those procedures conclude." Hilts again errs by relying on a provision of the Personnel Policy that applies only to cases of "Injury Leave." Nothing else in the Personnel Policy contradicts the provision providing for *immediate* dismissal nor suggests that, in Hilts' case, her termination was suspended during the pendency of her appeal. As the Supreme Court held in *Delaware State College v. Ricks*,[10] for an otherwise final termination decision, "the pendency of a grievance, or some other method of collateral review of an employment decision, does not toll the running of the limitations periods."[11]

Hilts argues the *Ricks* rule is inapplicable because the final decision was only made by the City Manager after the hearing. Again, she is mistaken—as explained above, the Termination Notice was the final decision under the Personnel Policy. Hilts' reliance on *Green v. Brennan*[12] is misplaced for the same reason. Hilts argues that the Court in *Green* explained "a cause of action is 'complete and present' only when 'the plaintiff can file suit and obtain relief'—that is, when all the elements of the claim have occurred," the import of which here is that "a substantive due process termination claim requires both an allegedly arbitrary decision and finalization of that decision." This argument again ignores that the finalization of the termination decision occurred on April 1, 2022, when Hilts received the Termination Notice.

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[10] 449 U.S. 250 (1980).

[11] *Id.* at 261.

[12] 578 U.S. 547 (2016).

Hilts' reliance on our unpublished decision in *Cohly v. Mississippi Institutions of Higher Learning*[13] fails for the same reason. There, we held that a substantive due process claim based on termination did not accrue when the plaintiff's termination was merely recommended, but rather accrued when it was finally approved.[14] Here, too, we find Hilts' claim accrued when her termination was finally approved. But, as explained before, Hilts' termination was recommended by Wyble on March 15, was then approved by the City Manager, and became effective on April 1 when Hilts received the Termination Notice.

Unwilling to accept this result, Hilts argues it is simply illogical for her substantive due process and procedural due process claims to have accrued on different dates. But for a procedural due process claim, "[t]he constitutional violation actionable under § 1983 is not complete when the deprivation occurs; it is not complete unless and until the State fails to provide due process."[15] Hilts' substantive due process claim based on an allegedly arbitrary termination became complete when the termination was finalized. Hilts' procedural due process claim became complete only after she received allegedly deficient process—in other words, after the appeal process. These are separate constitutional claims based on distinct underlying events, and accordingly accrued at different times.

Finally, Hilts argues the district court erred by relying on several extrinsic documents instead of crediting the allegations in her complaint without converting the motion to dismiss into a motion for summary judgment. The district court, in addition to the Personnel Policy and

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[13] No. 23-60232, 2024 WL 65432 (5th Cir. Jan. 5, 2024) (unpublished).

[14] *Id.* at *3.

[15] *Zinermon v. Burch*, 494 U.S. 113, 126 (1990).

Termination Notice, also considered the transcript of Hilts' appeal hearing and a memorandum from the hearing committee summarizing their findings and recommendations. Normally, "[i]f, on a motion under Rule 12(b)(6) . . . , matters outside the pleadings are presented to and not excluded by the court, the motion must be treated as one for summary judgment under Rule 56."[16] But this rule is subject to exceptions. "[C]ourts may also consider matters of which they may take judicial notice,"[17] and "documents that are referred to in the plaintiff's complaint and are central to the plaintiff's claim."[18]

The district court explicitly invoked the latter exception to consider the Personnel Policy, Termination Notice, and hearing transcript, and explicitly took judicial notice of the hearing committee memorandum. We find no error in the district court's invocation of these exceptions. Hilts argues that her "complaint alleges that the termination was not final until June 24, 2022" and the district court erred by crediting the documents and not accepting that allegation. But we cannot say that the district court erred by examining documents it was permitted to examine and then determining Hilts' characterization of those documents was misleading or incorrect.[19]

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[16] FED. R. CIV. P. 12(d).

[17] *Lovelace v. Software Spectrum, Inc.*, 78 F.3d 1015, 1017-18 (5th Cir. 1996).

[18] *Scanlan v. Tex. A&M Univ.*, 343 F.3d 533, 536 (5th Cir. 2003).

[19] *See Carter v. Target Corp.*, 541 F. App'x 413, 417 (5th Cir. 2013) (unpublished) (crediting documents attached to the defendant's motion to dismiss over the plaintiff's contradictory allegations where "[t]he documents at issue here—[the plaintiff]'s two EEOC Charges—were referenced in her complaint and are central to her claim" because "[t]heir contents are essential to determining (i) whether the EEOC and LCHR Charges were filed within the applicable statute of limitations, and (ii) whether the allegations contained in those complaints allege a colorable violation of Title VII" and concluding "[t]hese issues are central to [the plaintiff]'s pleadings, and her failure to include them does not allow her complaint to bypass [the defendant]'s motion to dismiss unexamined").

In sum, we agree with the district court that Hilts' substantive due process claim is time-barred and therefore cannot serve as the constitutional violation underlying her § 1983 claim against the City.

B

Hilts' procedural due process claim "depends on [her] having had a property right in continued employment. If [she] did, the State could not deprive [her] of this property without due process."[20] "Property interests, of course, are not created by the Constitution. Rather they are created and their dimensions are defined by existing rules or understandings that stem from an independent source such as state law—rules or understandings that secure certain benefits and that support claims of entitlement to those benefits."[21] "To have a property interest in a benefit, a person clearly must have more than an abstract need or desire for it. He must have more than a unilateral expectation of it. He must, instead, have a legitimate claim of entitlement to it."[22]

Hilts first argues the Personnel Policy created a protected property interest because "termination could only occur for good cause in violation of the City's rules and . . . such termination required approval of the City Manager following a hearing before a five-member committee." As we have previously explained, Hilts' termination was final upon receipt of the Termination Notice, and the termination did not require the hearing to be final. Additionally, though Hilts alleged she was subject to good-cause restrictions, the Personnel Policy mentions "good cause" only once in a

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[20] *Cleveland Bd. of Educ. v. Loudermill*, 470 U.S. 532, 538 (1985) (internal citations omitted).

[21] *Bd. of Regents of State Colls. v. Roth*, 408 U.S. 564, 577 (1972).

[22] *Id.*

section regarding "General Public Evacuations," and otherwise contains no mention of good-cause or for-cause restrictions. Because the Personnel Policy contains nothing suggesting otherwise, Hilts was subject to Texas's at-will employment presumption.[23] "[A]n employee who is terminable at will generally has no constitutionally-protected property interest."[24]

Hilts further argues the Last Chance Agreement gave rise to her protected property interest because it "created a contractual limitation on the City's discretion to terminate [Hilts'] employment." We disagree. Rather than restrict the reasons Hilts *could* be fired to those stated in the Agreement, the Last Chance Agreement clarifies that Hilts *would* be fired if any of the stated criteria were met. Because the Last Chance Agreement also does not restrict the grounds for Hilts' termination, it is insufficient to overcome the presumption of at-will employment and does not give Hilts a protected property interest in her continued employment.

Hilts points to a Ninth Circuit decision[25] that she argues held "a Last Chance Agreement can preserve property interests by specifying conditions for termination," but her reliance on this case is misplaced. In *Walls*, the plaintiff-employee was subject to for-cause termination restrictions prior to being terminated, and then signed a Last Chance Agreement in order to be reinstated.[26] The defendant argued the Last Chance Agreement changed the

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[23] *Sawyer v. E I DuPont De Nemours & Co.*, 689 F.3d 463, 467 (5th Cir. 2012) ("Employment in Texas is presumed to be at-will." (citing *Midland Jud. Dist. Cmty. Supervision & Corr. Dep't v. Jones*, 92 S.W.3d 486, 487 (Tex. 2002))).

[24] *Stem v. Gomez*, 813 F.3d 205, 210 (5th Cir. 2016); *see, e.g.*, *Roth*, 408 U.S. at 578 (holding that where statutory terms of appointment "did not provide for contract renewal absent 'sufficient cause'" and "made no provision for renewal whatsoever," the plaintiff "did not have a property interest sufficient to require" due process).

[25] *Walls v. Cent. Contra Costa Transit Auth.*, 653 F.3d 963 (9th Cir. 2011).

[26] *Id.* at 966, 968.

employee's status to at-will, but the Ninth Circuit disagreed, holding the plaintiff "*remained* a public employee who could be fired only for cause, that is, an employee with a property interest in his continued employment."[27] But here, Hilts was not subject to for-cause restrictions in the first place, and the Last Chance Agreement did not alter her at-will status.

Hilts again argues it was improper for the district court to analyze the Personnel Policy and Last Chance Agreement for itself instead of accepting her allegation that the Policy and Agreement limited the grounds on which the City would terminate her. As we explained above, the district court was authorized to consider these documents as they were "referred to in the plaintiff's complaint and are central to the plaintiff's claim."[28] The court did not err by discrediting Hilts' allegations about what these documents said when Hilts' allegations were plainly contradicted by the documents themselves.[29]

Hilts next argues that even if the Personnel Policy and Last Chance Agreement did not individually give rise to a protected property interest, the combination of the two did. This argument is unavailing. Neither document restricted the City's ability to terminate Hilts and neither suffices to overcome the presumption of at-will employment. Hilts presents no compelling reason why the combination of two individually inadequate sources would somehow suffice to give rise to a protected property interest.

Hilts further argues that she alleged "established practices tantamount to policy" that gave rise to her protected property interest. But the allegation she refers to states "the City has a practice tantamount to a

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[27] *Id.* at 968 (emphasis added).

[28] *Scanlan v. Tex. A&M Univ.*, 343 F.3d 533, 536 (5th Cir. 2003).

[29] *See Carter v. Target Corp.*, 541 F. App'x 413, 417 (5th Cir. 2013) (unpublished).

policy that employees whose supervisors stay firm with their recommendation of termination even if arbitrary and not grounded in reasoned analysis." Even when taken as true, an allegation that the City routinely upholds termination recommendations plainly fails to give an employee a protected interest in their continued employment.

Finally, Hilts argues she is entitled to discovery in an effort to establish her property interest. But the rules of pleading "do[] not unlock the doors of discovery for a plaintiff armed with nothing more than conclusions."[30]

Hilts has not stated either a procedural due process claim or a substantive due process claim. Therefore, Hilts has not shown any constitutional violation. As a result, she cannot state a claim for municipal liability under § 1983.

III

Lastly, we consider whether dismissal with prejudice and without leave to amend was an abuse of discretion. "A district court's denial of leave to amend and the subsequent dismissal with prejudice are reviewed for an abuse of discretion."[31] "The trial court acts within its discretion in denying leave to amend where the proposed amendment would be futile because it could not survive a motion to dismiss."[32] Hilts does not explain how she could amend her pleadings to overcome a motion to dismiss. Further, any amendment would be futile because Hilts cannot, as a matter of law, overcome the statute of limitations on her substantive due process claim nor

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[30] *Ashcroft v. Iqbal*, 556 U.S. 662, 678-79 (2009).

[31] *Caldwell Wholesale Co. v. R J Reynolds Tobacco Co.*, 781 F. App'x 289, 298 (5th Cir. 2019) (unpublished).

[32] *Rio Grande Royalty Co v. Energy Transfer Partners, L.P.*, 620 F.3d 465, 468 (5th Cir. 2010) (citing *Briggs v. Mississippi*, 331 F.3d 499, 508 (5th Cir. 2003)).

establish a protected property interest arising out of documents that are already in the record. The district court also noted its concerns about "perfunctory pleading and slapdash arguments throughout the briefing" in denying leave to amend. The district court did not abuse its discretion in dismissing with prejudice and denying leave to amend.

* * *

For the foregoing reasons, we AFFIRM the district court's dismissal of Hilts' municipal liability claim with prejudice and denial of leave to amend.