

700 Fed.Appx. 697 (Mem)

This case was not selected for publication in West's Federal Reporter. See Fed. Rule of Appellate Procedure 32.1 generally governing citation of judicial decisions issued on or after Jan. 1, 2007. See also U.S.Ct. of App. 9th Cir. Rule 36-3. United States Court of Appeals, Ninth Circuit.

James Martin HOUSTON, Plaintiff-Appellant,

v.

YONCALLA SCHOOL DISTRICT NO. 32, a political subdivision of the State of Oregon; et al., Defendants-Appellees.

No. 16-35558

Submitted October 23, 2017*

Filed October 30, 2017

Appeal from the United States District Court for the District of Oregon, Ann L. Aiken, District Judge, Presiding, D.C. No. 6:13-cv-01318-AA

Attorneys and Law Firms

James Martin Houston, Pro Se

Haley Elizabeth Percell, Attorney, Oregon School Boards Association, Salem, OR, for Defendants-Appellees

Before: **LEAVY**, **WATFORD**, and **FRIEDLAND**, Circuit Judges.

MEMORANDUM**

James Martin Houston appeals pro se from the district court's summary judgment in his 42 U.S.C. § 1983 action alleging violations of the First Amendment. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Thomas v. City of Beaverton*, 379 F.3d 802, 807 (9th Cir. 2004). We affirm.

The district court properly granted summary judgment on Houston's First Amendment retaliation claims because Houston failed to raise a genuine dispute of material fact as to whether he engaged in speech as a private citizen on a matter of public concern. See *Dahlia v. Rodriguez*, 735 F.3d 1060, 1066-67 (9th Cir. 2013) (en banc) (to establish a First Amendment retaliation claim as a public employee, plaintiff must demonstrate that he spoke on a matter of public concern and did so as a private citizen); see also *Desrochers v. City of San Bernardino*, 572 F.3d 703, 708-09 (9th Cir. 2009) (setting forth elements of a First Amendment retaliation claim).

The district court properly granted summary judgment on Houston's claim alleging that defendants restricted his free speech in violation of the First Amendment by preventing him from attending Yoncalla School District's and Douglas Education Service District's board meetings because Houston failed to raise a genuine dispute of material fact that he was barred from any meetings.

We do not consider arguments and allegations raised for the first time on appeal. See *Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009).

AFFIRMED.

All Citations

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Footnotes

* The panel unanimously concludes this case is suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2). Houston's request for oral argument, set forth in his opening and reply briefs, is denied.

** This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.