

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

September 4, 2026

Christopher M. Wolpert
Clerk of Court

KAILYN COOK; SUSAN SHIPP,

Plaintiffs - Appellants,

v.

ALBANY COUNTY BOARD OF
COUNTY COMMISSIONERS, a
Wyoming body corporate and politic;
ALBANY COUNTY JOHN DOES I-X,
real names unknown, in their individual
and official capacities,

Defendants - Appellees.

No. 25-8047
(D.C. No. 1:24-CV-00014-SWS)
(D. Wyo.)

ORDER AND JUDGMENT*

Before **HARTZ, BACHARACH**, and **EID**, Circuit Judges.

Plaintiffs, appearing pro se, appeal the district court's grant of summary judgment to defendants on claims of discrimination and retaliation arising from their employment. Exercising jurisdiction under 28 U.S.C. § 1291, we affirm.

* After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist in the determination of this appeal. *See* Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument. This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. It may be cited, however, for its persuasive value consistent with Fed. R. App. P. 32.1 and 10th Cir. R. 32.1.

I. Background

Plaintiffs Susan Shipp and Kailyn Cook were employed by Albany County, Wyoming (the County), as “Prevention Specialists,” R. vol. 1 at 234, ¶ 48, and worked with the Coalition to Prevent Suicide and Substance Abuse. In August 2021, Shipp submitted a letter of resignation, “citing a hostile working environment as a reason for her resignation.” *Id.* at 241, ¶ 106. She was immediately discharged without an exit interview, allegedly in violation of an employee handbook. The following month, the County terminated Cook’s employment, purportedly “for work performance and [Wyoming Department of Health] Grant compliance issues.” *Id.* at 242, ¶ 110–11.

In the action underlying this appeal, Plaintiffs, through counsel, asserted two claims for relief under 42 U.S.C. § 1983, alleging First Amendment retaliation; and four claims for relief under Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e to 2000e-17, alleging hostile work environment, discrimination, retaliation, and retaliatory discharge. They named as defendants the County’s Board of County Commissioners and County John Does I–X, in their individual and official capacities.

The district court granted the County’s motion for summary judgment. The court first concluded that Plaintiffs’ Title VII hostile-work-environment claim was time-barred because they did not file a timely administrative charge based on a hostile work environment. In the alternative, the district court concluded that the hostile-work-environment claim failed on the merits.

As to the other three Title VII claims, the district court concluded that Shipp failed to establish a *prima facie* case of constructive discharge; Cook did not establish the third element of a *prima facie* case of retaliatory discharge—causal connection—between her termination and her reports of, or opposition to, unlawful discrimination; and Cook’s claim of pretextual termination failed because she “‘concede[d] that she was not harassed based upon her membership in a protected group,’” R. vol. 4 at 82 (quoting R. vol. 3 at 17).

Finally, the district court granted summary judgment on Plaintiffs’ First Amendment retaliation claims because Plaintiffs admitted that their complaints “were made pursuant to their official duties,” *id.* at 84, so their speech was “not protected by the First Amendment,” *id.* at 85.¹

Plaintiffs timely filed this appeal *pro se*.

II. Discussion

In their opening brief, Plaintiffs provide a lengthy factual narrative and then specifically identify two issues: (1) “Whether the District Court erred in granting summary judgment to [the] County where the record demonstrates genuine disputes of material fact showing that [Plaintiffs] were subjected to retaliation, disparate treatment, and denial of due process protections in violation of . . . § 1983 and the Fourteenth Amendment.”; and (2) “Whether the district court applied the wrong legal

¹ The district court also noted that Plaintiffs never amended “their complaint to identify any ‘John Doe’ defendants that were sued in their individual (personal) capacities.” R. vol. 4 at 87.

standard by treating the County’s failure to follow its own personnel policies and procedures as immaterial, rather than recognizing such violations as evidence of pretext, bias, and bad faith” Apl’t. Opening Br. at 8–9. Plaintiffs also advance other generalized arguments, including that the district court “relied on a narrow ‘at-will employment’ framework and overlooked federal and constitutional protections afforded to public employees engaged in protected activity,” “improperly resolved credibility disputes in favor of Defendants and failed to construe evidence in the light most favorable to [Plaintiffs],” “ignored substantial, verifiable evidence,” and “failed to address evidence of retaliation for protected speech and whistleblower activity.” *Id.* at 10.

Plaintiffs’ briefing is inadequate in multiple respects. Although we afford Plaintiffs’ pro se filings a liberal construction, they must “follow the same rules of procedure that govern other litigants.” *Garrett v. Selby Connor Maddux & Janer*, 425 F.3d 836, 840 (10th Cir. 2005) (internal quotation marks omitted). One of those procedural rules is Federal Rule of Appellate Procedure 28(a)(8)(A). It requires an appellant’s opening brief to include an “argument, which must contain . . . appellant’s contentions and the reasons for them, with citations to the authorities and parts of the record on which the appellant relies.” Fed. R. App. P. 28(a)(8)(A). An appellant’s “brief must contain more than a generalized assertion of error, with citations to supporting authority.” *Garrett*, 425 F.3d at 841 (ellipsis and internal quotation marks omitted). “When a pro se litigant fails to comply with that rule, we

cannot fill the void by crafting arguments and performing the necessary legal research.” *Id.* (brackets and internal quotation marks omitted).

Plaintiffs’ opening brief does not come close to complying with these requirements. Their arguments are conclusory, they provide no citations to the record,² and what few legal authorities they cite are of no help in demonstrating that the district court erred in any of its dispositive rulings. Accordingly, we conclude that Plaintiffs have waived appellate review through their deficient briefing. *See United States v. Walker*, 918 F.3d 1134, 1151 (10th Cir. 2019) (“[A]rguments may be deemed waived when they are advanced in an opening brief only in a perfunctory manner.” (internal quotation marks omitted)); *Pignanelli v. Pueblo Sch. Dist. No. 60*, 540 F.3d 1213, 1217 (10th Cir. 2008) (holding that appellant waived review by failing to cite any pertinent legal authority or record evidence).

Moreover, Plaintiffs do not in any manner challenge the district court’s dispositive conclusions.³ Accordingly, Plaintiffs have waived appellate review of these rulings for the additional reason that they have failed to address them. *See Nixon v. City & Cnty. of Denver*, 784 F.3d 1364, 1366 (10th Cir. 2015) (“The first

² We do not find compelling Plaintiffs’ claim that “[r]ather than risk mis-citing the record or inaccurately referencing materials,” they “made the deliberate choice to avoid formal citations.” *Aplt. Reply Br.* at 1.

³ One might read Plaintiffs’ opening brief as challenging the district court’s *alternative* conclusion that their hostile-work-environment claim failed on the merits. But whether that conclusion was correct is immaterial in the face of Plaintiffs’ failure to successfully challenge the district court’s primary reason for granting summary judgment on this claim.

task of an appellant is to explain to us why the district court’s decision was wrong.”); *Reedy v. Werholtz*, 660 F.3d 1270, 1275 (10th Cir. 2011) (“The argument section of Plaintiffs’ opening brief does not challenge the court’s reasoning on this point. We therefore do not address the matter.”).

III. Conclusion

The district court’s judgment is affirmed.

Entered for the Court

Harris L Hartz
Circuit Judge