

OCT 22 2012

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ROBERT TITUS, an individual,

Plaintiff - Appellee,

v.

STANLEY HORRELL, an individual; JIM  
MUNYON, an individual; FRANK  
PRIMOZIC, an individual; PAM  
WOODWORTH, an individual; TIM  
COE, an individual; ROGER  
MCKINLEY, an individual; BILL  
HARRINGTON, an individual,

Defendants - Appellants,

and

CITY OF PRAIRIE CITY, a municipal  
corporation; DIANE CLINGMAN, an  
individual; ANNA BASS, an individual,

Defendants.

No. 11-35664

D.C. No. 2:08-cv-01330-SU

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Oregon  
Patricia Sullivan, Magistrate Judge, Presiding

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\* This disposition is not appropriate for publication and is not precedent  
except as provided by 9th Cir. R. 36-3.

Argued and Submitted October 10, 2012  
Portland, Oregon

Before: SILVERMAN, CLIFTON, and N.R. SMITH, Circuit Judges.

Stanley Horrell and other members of the Prairie City Council appeal from the district court's denial of summary judgment in this 42 U.S.C. § 1983 action brought by Robert Titus. Because Titus had no protected property interest in his continued employment, he suffered no due process violation, and appellants are entitled to qualified immunity. We reverse.

Titus was an at will employee under the terms of the City Charter. The Charter states that the City Council may appoint "such other officers and employees of the city as the Council deems necessary or advisable and may remove any of them at any time within their discretion." Titus offers no evidence to prove that he was not appointed by the City Council, and he does not dispute that he was employed by the city. Though Titus argued that the Charter does not apply to his position because it is not a specifically listed "officer" position, Titus was at least an "other . . . employee[]" whom the City Council could remove without limitation. Since Titus had no entitlement to his continued employment, he had no protected property interest, and his due process rights were not violated. *See Lawson v. Umatilla Cnty.*, 139 F.3d 690, 691-92 (9th Cir. 1998). Appellants

are entitled to summary judgment on the basis of qualified immunity because they did not violate Titus's due process rights. *See Pearson v. Callahan*, 555 U.S. 223, 232, 236 (2009).

**REVERSED and REMANDED.**