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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

RICHARD FALGE,

Plaintiff - Appellant,

v.

DEBRA BROOKS; et al.,

Defendants - Appellees.

No. 11-16130

D.C. No. 3:10-cv-00163-RCJ-VPC

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Nevada  
Robert Clive Jones, Chief District Judge, Presiding

Submitted November 5, 2012\*\*  
San Francisco, California

Before: SCHROEDER, KLEINFELD, and BERZON, Circuit Judges.

Richard Falge appeals the district court's order granting defendants' motion for summary judgment on his 42 U.S.C. § 1983 retaliation claim. We affirm. We

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

\*\* The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

have jurisdiction under 28 U.S.C. § 1291. We review orders granting summary judgment de novo. Ray v. Henderson, 217 F.3d 1234, 1239 (9th Cir. 2000).

The Nevada Department of Corrections fired Falge after it concluded that he had falsified prison inspection log information. Prior to his termination, Falge had complained to department officials that defendant Debra Brooks had been promoted to the position of Associate Warden of Operations instead of him. Falge complained that Brooks was incompetent, and according to E.K. McDaniel, Falge was “displeased that [his] new commanding officer was a woman.” After Brooks was in the position, Falge participated in a meeting in which he criticized Brooks’ competence in the position. He sued under § 1983, claiming that the Department retaliated against him for exercising his right to freedom of speech.

Even if we assume that Falge was fired in retaliation for his comments about Brooks, he has not shown that he spoke on a “matter of public concern.” Eng v. Cooley, 552 F.3d 1062, 1070 (9th Cir. 2009). His concern about Brooks’ promotion was an internal personnel grievance that did not affect the public’s evaluation of the agency. Desrochers v. City of San Bernardino, 572 F.3d 703, 710 (9th Cir. 2009); Brownfield v. City of Yakima, 612 F.3d 1140, 1147-48 (9th Cir.

2010). The district court properly granted defendants' motion for summary judgment.

**AFFIRMED.**