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MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ROBERT PYKE,

Plaintiff - Appellant,

v.

ARCADIS US, INC., a Colorado
corporation; LARRY ROTH,

Defendants - Appellees.

No. 14-15835

D.C. No. 3:11-cv-01279-CRB

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Charles R. Breyer, Senior District Judge, Presiding

Argued and Submitted April 14, 2016
San Francisco, California

Before: WALLACE, SCHROEDER, and KOZINSKI, Circuit Judges.

Appellant Robert Pyke appeals from the district court's summary judgment in favor of Appellees ARCADIS US, Inc. (Arcadis) and Larry Roth. We have jurisdiction under 28 U.S.C. § 1291 and review the district court's summary

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

judgment de novo. *Ah Quin v. Cty. of Kauai Dept. of Transp.*, 733 F.3d 267, 270 (9th Cir. 2013). We affirm.

Pyke contends that Arcadis unlawfully retaliated against him for First Amendment protected speech. He argues that two of his communications merit constitutional protection. First, he points to an email he sent to his Arcadis supervisors and Terry Macaulay, a director of the California state-government agency that engaged Arcadis to perform consulting work on a water-management project. In that email, Pyke voiced his disagreement with the agency's decision to exclude two people from participating on the Arcadis team. Second, he circulated to his superiors and the agency two memoranda pointing out perceived flaws with the agency's approach to the project.

Neither of Pyke's communications merit First Amendment protection. Pyke's email expressing his desire to have the two excluded individuals on his team is unprotected because he was acting pursuant to his "official duties" in recommending those individuals. *Garcetti v. Ceballos*, 547 U.S. 410, 421 (2006). His memoranda are likewise unprotected because they were "routine report[s]" dealing with the water-management project on which the agency hired Arcadis as a consultant. *Dahlia v. Rodriguez*, 735 F.3d 1060, 1075 (9th Cir. 2013) (en banc).

We hold that Pyke's communications are unprotected by the First Amendment and, accordingly, we affirm the district court's summary judgment in favor of Appellees.

AFFIRMED.