

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

OCT 9 2026

FOR THE NINTH CIRCUIT

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

FRANCOIS TABI,

Plaintiff - Appellant,

v.

Deputy STEPHENSON, No.
9401; UNKNOWN PARTIES, Several
Unnamed Security Officers at the Walmart
Supercenter,

Defendants - Appellees.

No. 24-3596

D.C. No.

2:21-cv-09929-DMG-JC

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Dolly M. Gee, District Judge, Presiding

Submitted October 9, 2026**

Before: O'SCANNLAIN, SILVERMAN, and N.R. SMITH, Circuit Judges.

Francois Tabi appeals pro se from the district court's grant of summary judgment in favor of Michael Stephenson, a Los Angeles County Sheriff's Deputy,

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

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

in his 42 U.S.C. § 1983 action alleging that his First and Fourteenth Amendment rights were violated when he was directed to leave Walmart’s premises while registering voters and distributing ballot measures. We have jurisdiction pursuant to 28 U.S.C. § 1291. We review a district court’s grant of summary judgment de novo and may affirm on any ground supported by the record. *M & T Bank v. SFR Inv. Pool 1, LLC*, 963 F.3d 854, 857 (9th Cir. 2020). We affirm.

Summary judgment was proper on the First Amendment freedom of speech claim because there is no First Amendment right to freedom of speech on privately owned shopping center property. *See Hudgens v. NLRB*, 424 U.S. 507, 520-21 (1976) (holding that employees of a retail store had no First Amendment right to enter a shopping center to advertise their strike against a store in the center).

Summary judgment was proper on the First Amendment retaliation claim. It was undisputed that Walmart security asked Tabi to leave and then called the police after Tabi refused to leave. Tabi failed to offer sufficient evidence to establish that Deputy Stephenson acted with retaliatory animus when he investigated whether Tabi had outstanding warrants and then advised Tabi for a second time that he was trespassing on private property and would be arrested for trespassing if he refused to leave the premises. *See Capp v. Cnty. of San Diego*, 940 F.3d 1046, 1053 (9th Cir. 2019) (setting forth the elements of a retaliation claim, including the requirement that “the adverse action against the plaintiff

would not have been taken absent the retaliatory motive”) (internal quotation marks omitted); Cal. Penal Code § 602.1(a).

Summary judgment was proper on the equal protection claim because Tabi failed to offer evidence to establish that he was similarly situated to the other signature gatherers in the shopping center. It was undisputed that Tabi was the only signature gatherer who set up a card table and chair close to a Walmart entrance. *See SmileDirectClub, LLC v. Tippins*, 31 F.4th 1110, 1123 (9th Cir. 2022) (holding that “a class-of-one plaintiff must be similarly situated to the proposed comparator in all material respects.”).

Appellant’s motion for miscellaneous relief (Dkt. Entry No. 21) is DENIED.

AFFIRMED.