

FILED
United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

October 27, 2026

Christopher M. Wolpert
Clerk of Court

COREY MCNELLIS,

Plaintiff - Appellant,

v.

DOUGLAS COUNTY SCHOOL
DISTRICT,

Defendant - Appellee.

No. 26-1020
(D.C. No. 1:22-CV-01636-RM-STV)
(D. Colo.)

ORDER AND JUDGMENT*

Before **EID, CARSON**, Circuit Judges, and **WYRICK**, ** District Judge.

This case returns to this Court after the district court's grant of summary judgment to the Douglas County School District. Because we conclude that the record contains a genuine dispute of material fact, we reverse and remand for further proceedings consistent with this Order and Judgment. We have jurisdiction under 28 U.S.C. § 1291.

* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel.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.

** The Honorable Patrick Robert Wyrick, United States District Judge, United States District Court for the Western District of Oklahoma, sitting by designation.

I.

Corey McNellis is a former Athletic Director and Assistant Principal at Ponderosa High School in the Douglas County School District (the “School District”). In a staff email chain, McNellis expressed reservations about an extracurricular theater production at the school—a then-upcoming production of *The Laramie Project*—and offered to add a “Christian perspective” to the production. Shortly thereafter, Danny Winsor, Executive Director of Schools for the Parker Region, called McNellis and told him that he “was being put on leave because of [his] religious remarks.” App’x Vol. III at 846. In turn, McNellis was placed on administrative leave, investigated, and ultimately terminated.

On July 1, 2022, McNellis sued the School District in the United States District Court for the District of Colorado. In his operative complaint, McNellis brought a First Amendment retaliation claim under 42 U.S.C. § 1983 and religious discrimination and retaliation claims under Title VII and Colorado law. The district court dismissed the case under Federal Rule of Civil Procedure 12(b)(6), and McNellis appealed. A prior panel of this Court subsequently reversed the dismissal of his discrimination claims and remanded. *See McNellis v. Douglas Cnty. Sch. Dist.*, 116 F.4th 1122, 1144 (10th Cir. 2024).

On remand, the School District moved for summary judgment. On December 22, 2025, the district court granted summary judgment to the School District after concluding that (1) there was no direct evidence of discrimination; (2) McNellis failed to establish a prima facie case of discrimination; and (3) McNellis failed to

raise a genuine dispute of material fact as to pretext. Following the entry of final judgment, McNellis appealed.

II.

Upon our review of the record, the arguments of counsel in their briefs and at oral argument, the relevant precedents from this Court and the United States Supreme Court, and the applicable summary judgment standard, we conclude that the district court erred when it found that no genuine dispute of material fact exists as to pretext. To the contrary, evidence that the School District fired McNellis for his “religious remarks,” and the subsequent investigation of McNellis, raise the very question of whether the School District terminated McNellis for his protected religious beliefs. *See, e.g.*, App’x Vol. I at 241–42 (letter from Tim Ottmann, principal of Ponderosa High School at the time of McNellis’s termination, stating that McNellis was “railroaded” for his “religious views”); App’x Vol. III at 846 (McNellis’s deposition testimony stating that Winsor told him he “was being put on leave because of [his] religious remarks”); App’x Vol. V at 1185–86 ¶¶ 55–56 (proposed edits to McNellis’s apology letter made by School District employees, which proposed adding the statement “I want to apologize for hurting anyone due to my comments” and calling McNellis’s comments “inappropriate and unprofessional”).

Although the School District argues that its decision to terminate McNellis rested on non-religious, performance-based grounds, the finder of fact must resolve questions as to the veracity of the School District’s motivations. *See Smothers v. Solvay Chemicals, Inc.*, 740 F.3d 530, 538 (10th Cir. 2014) (“When evaluating an

employer's motives or reasons, 'motivation is itself a factual question.'") (quoting *Hunt v. Cromartie*, 526 U.S. 541, 549 (1999)); cf. *Barber v. Gen. Elec. Co.*, 648 F.2d 1272, 1278 (10th Cir. 1981) ("It is not the duty of the trial court to weigh the evidence between the plaintiff and the defendant on a motion for summary judgment. Nor is it the purpose of the summary judgment remedy to serve as a substitute for a trial by the judge or for a trial by jury."). And indeed, upon this record, a reasonable jury could conclude that the School District terminated McNellis for his religious beliefs and conducted a pretextual investigation to justify the termination. We therefore reverse the district court's grant of summary judgment to the School District and remand for further proceedings consistent with this Order and Judgment.

III.

In light of the foregoing, we REVERSE the district court's grant of summary judgment and REMAND for further proceedings consistent with this Order and Judgment.

Entered for the Court

Allison H. Eid
Circuit Judge