

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

United States Court of Appeals  
Fifth Circuit

**FILED**

March 14, 2013

Lyle W. Cayce  
Clerk

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No. 12-30789  
Summary Calendar

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STEPHEN RUSH LINZAY,

Plaintiff-Appellant

v.

SCHOOL BOARD OF NATCHITOCHE PARISH; DERWOOD DUKE, in his  
official capacity as superintendent,

Defendants-Appellees

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Appeal from the United States District Court  
for the Western District of Louisiana  
USDC No. 1:11-CV-00077

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Before WIENER, ELROD, and GRAVES, Circuit Judges.

PER CURIAM:\*

Stephen Rush Linzay appeals the district court's dismissal of his 42 U.S.C. § 1983 claim for failure to state a claim upon which relief can be granted. Linzay asserts he had a property interest in his job as a certified probationary teacher and coach, and that Appellees violated his Fourteenth Amendment right to

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\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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procedural due process by terminating Linzay without providing him written reasons and an opportunity to be heard before termination.

We review *de novo* the district court's dismissal. *Cornerstone Christian Sch. v. Univ. Interscholastic League*, 563 F.3d 127, 133 (5th Cir. 2009). We may affirm the district court's judgment on any basis supported by the record. *United States v. Taylor*, 482 F.3d 315, 318 (5th Cir. 2007).

We have ruled that former La. Rev. Stat. § 17:442—the version of the statute at issue here—does not provide the basis for a probationary teacher to claim a property interest in his job.<sup>1</sup> *Noel v. Andrus*, 810 F.2d 1388, 1390 (5th Cir. 1987). Louisiana courts have held the same. *See, e.g., McKenzie v. Webster Parish Sch. Bd.*, 609 So. 2d 1028, 1031 (La. Ct. App. 1992). Furthermore, as the district court noted, “Louisiana jurisprudence has been clear for almost twenty years” that certified probationary teachers do not enjoy due process protection under La. Rev. Stat. § 17:81.5 because they are not “school employees” within the meaning of the statute. Dist. Ct. Ruling Granting Mot. to Dismiss at 3 n.1 (citing *Wilhelm v. Vermilion Parish Sch. Bd.*, 598 So. 2d 699, 701 (La. Ct. App. 1992)). Therefore, we AFFIRM.

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<sup>1</sup> Louisiana amended La. Rev. Stat. § 17:442 in 2012. 2012 La. Acts 1 § 3.