

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 08-3987

JAMES E. BARANOWSKI,

Appellant

v.

CAPTAIN ROGER N. WATERS;
LIEUTENANT CHARLES L. DEPP.

On Appeal from the United States District Court
for the Western District of Pennsylvania
(2-05-cv-01379)
District Judge: Hon. Nora Barry Fischer

Argued: March 9, 2010

Before: MCKEE, BARRY and GREENBERG, Circuit Judges

(Opinion filed: March 16, 2010)

Timothy P. O'Brien (Argued via tele-conference)
429 Forbes Avenue
Pittsburgh, PA 15219
Attorney for Appellant

Kemal A. Mericli (Argued)
Office of Attorney General of Pennsylvania
Pittsburgh, PA 15219
Attorney for Appellee

OPINION

MCKEE, *Circuit Judge*

James E. Baranowski appeals the district court's order granting the defendants' motion for summary judgment on the action he brought under 42 U.S.C. § 1983. For the reasons that follow, we will affirm.¹

We write primarily for the parties who are familiar with the factual and procedural background of this case. Thus, we will dispense with a factual summary.

As the district court noted, "the critical question is whether [Baranowski's] speech was made pursuant to his duties as a police officer." *See Baranowski v. Waters*, Civ. No. 05-1379, 2008 WL 728366, *19 (W.D. Pa. Mar. 18, 2008); *see also Garcetti v. Ceballos*, 547 U.S. 410, 421 (2006) (holding public employees' speech is not protected if it is made "pursuant to their official duties"). In its thorough and well-reasoned Opinion of March 18, 2008 and Memorandum Opinion of August 25, 2008,² the district court explained that Baranowski's speech was made pursuant to his official duties and that the defendants are therefore entitled to judgement as a matter of law. *Baranowski v. Waters*, Civ. No. 05-

¹ We have jurisdiction under 28 U.S.C. § 1291.

² Baranowski moved for reconsideration under Federal Rule of Civil Procedure 59(e) of the court's ruling on the statute of limitations, and on whether his speech was pursuant to his official duties. The district court denied Baranowski's motion on the latter issue in a Memorandum Opinion on August 25, 2008. *Baranowski v. Waters*, Civ. No. 05-1379, 2008 WL 4000406, *16 (W.D. Pa. Aug. 25, 2008).

1379, 2008 WL 728366 (W.D. Pa. Mar. 18, 2008); *Baranowski v. Waters*, Civ. No. 05-1379, 2008 WL 4000406, *16 (W.D. Pa. Aug. 25, 2008).

We will affirm substantially for the reasons set forth in the district court's thoughtful opinions.