

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

No. 18-20783

United States Court of Appeals
Fifth Circuit
FILED
December 12, 2019
Lyle W. Cayce
Clerk

MARK GYVES,

Plaintiff - Appellant

v.

CITY OF HOUSTON,

Defendant - Appellee

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 4:18-CV-891

Before HIGGINBOTHAM, DENNIS, and HO, Circuit Judges.

PER CURIAM:*

Mark Gyves is a pilot for Republic Airlines. After a flight to Houston George Bush Intercontinental Airport (IAH), Gyves found himself stuck in the jetway needing to use the restroom. Although a sign was posted with emergency contact information, Gyves used an emergency exit door to enter the terminal. Use of the emergency pull station notified security personnel at Houston Airport System (HAS) of a potential security breach at the gate.

* 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 R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR.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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After using the restroom and eating lunch, Gyves returned to the gate, where HAS personnel confronted him about the breach. Gyves refused to answer questions without counsel, left the conversation, and returned to the plane after confirming that he was free to go.

About a month later, Gyves received a Notice of Violation for violating HAS Operating Instruction Rule 41. Rule 41 provides that failure to cooperate with an investigation by HAS is a Class II violation. Class II violations lead to permanent loss of ID badges and access rights to HAS airports.

Following an administrative hearing at which Gyves was represented by counsel and allowed to present evidence, the violation was confirmed, and he was permanently barred from HAS airports.

Gyves filed suit claiming breaches of his Eighth and Fourteenth Amendment rights. He sought damages, injunctive relief, and a declaratory judgment. The district court concluded that none of Gyves's claims constituted a constitutional violation and accordingly entered judgment against Gyves.

We have reviewed the briefs, the applicable law, and the record, and heard oral argument. We agree with the district court in granting summary judgment to the city of Houston. In doing so, we acknowledge that the permanent loss of ID badges and access rights to HAS airports may seem a harsh penalty to Gyves. But that does not mean he raised a constitutional claim. We affirm.