

United States Court of Appeals  
For the Eighth Circuit

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No. 17-2196

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Rodney DeWalt

*Plaintiff - Appellant*

DeWalt CEO, Inc.

*Plaintiff*

v.

The City of Brooklyn Park, Minnesota, a Minnesota municipal corporation

*Defendant - Appellee*

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Appeal from United States District Court  
for the District of Minnesota - Minneapolis

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Submitted: March 6, 2018

Filed: March 21, 2018

[Unpublished]

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Before COLLTON, BOWMAN, and BENTON, Circuit Judges.

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PER CURIAM.

Rodney DeWalt appeals the district court's<sup>1</sup> entry of summary judgment against him and DeWalt CEO, Inc., on claims brought pursuant to 42 U.S.C. §§ 1981 and 1983. Having jurisdiction under 28 U.S.C. § 1291, this court affirms.

DeWalt challenged the City of Brooklyn Park's denial of permits to open a restaurant. Following a de novo review of the record and the parties' arguments on appeal, this court agrees with the district court's disposition of DeWalt's claims. *See Burger v. Allied Prop. & Cas. Ins. Co.*, 822 F.3d 445, 447 (8th Cir. 2016) (summary judgment decisions are reviewed de novo); *cf. Lewis v. Jacks*, 486 F.3d 1025, 1028 (8th Cir. 2007) (affirming grant of summary judgment on equal protection claim due to lack of evidence of discrimination); *Harris v. Hays*, 452 F.3d 714, 718-19 (8th Cir. 2006) (affirming grant of summary judgment on § 1981 claim due to lack of evidence of intent to discriminate); *Koscielski v. City of Minneapolis*, 435 F.3d 898, 903 (8th Cir. 2006) (affirming grant of summary judgment on substantive due process claim due to lack of evidence of irrational action); *Goodpaster v. City of Indianapolis*, 736 F.3d 1060, 1073 (7th Cir. 2013) (affirming denial of First Amendment claim because plaintiff did not establish protected First Amendment activity).<sup>2</sup>

The judgment is affirmed. *See* 8th Cir. R. 47B.

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<sup>1</sup>The Honorable Paul A. Magnuson, United States District Judge for the District of Minnesota.

<sup>2</sup>This court declines to consider claims that DeWalt raised below, but did not argue in his opening brief on appeal, *see Chay-Velasquez v. Ashcroft*, 367 F.3d 751, 756 (8th Cir. 2004), and arguments that he did not present to the district court in opposing summary judgment, *see Cole v. Int'l Union, United Auto., Aerospace & Agric. Implement Workers of Am.*, 533 F.3d 932, 936 (8th Cir. 2008).