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to provide adequate medical treatment required a showing that the defendants acted with deliberate indifference to the serious medical needs of the detainee. In this case, both the EMTs and the jail nurse, "who presumably had a greater facility than the average layperson to recognize" an individual's medical needs, had concluded that McCargo did not need hospitalization. As McCargo's condition was not obvious to these medically-trained employees, it certainly would not have been obvious to a layperson or to Officer Ruth. As a result, the plaintiffs failed to establish the obvious existence of a sufficiently serious medical need. The plaintiffs were also required to show that the defendant officer was "aware of facts from which the inference could be drawn that a substantial risk of serious harm exist[ed]," had drawn that inference, and disregarded the risk. Officer Ruth's actions did not rise to this level: while he may have failed to mention that McCargo had used cocaine, he was also entitled to rely on the EMTs' and nurse's medical assessments. Even had a constitutional violation occurred, the court found the plaintiffs failed to show that the policy prohibiting officers from transporting individuals to the hospital in a police vehicle for medical services caused McCargo's injuries. "At most, the evidence shows that Officer Ruth was reluctant to transport McCargo to the hospital. However, this reluctance could have sprung from any number of motivations, including the possibility that Officer Ruth, relying on the EMTs' assessment, did not believe that McCargo needed to go to the hospital for treatment." *Spears v. Ruth*, 589 F. 3d 249 (6th Cir. 2009).

First Amendment

School's Distribution Policy

The Plano, Texas Independent School District enacted a policy in 2005 that restricted the distribution of written materials, including those religious in nature, by its students. Students could only distribute such materials 30 minutes before and after school; during three annual parties; at recess; and "passively" at designated tables during school hours. All other distribution was prohibited. The preamble to the policy stated, in part, that the policy was "intended to decrease distractions, to decrease disruption, to increase the time available and dedicated to learning, and to improve the educational process, environment, safety and order at District schools and not invade or collide with the rights of others." The plaintiffs, four students and their families, brought suit, claiming that the policy was facially invalid under the First Amendment. The district court disagreed, finding that the policy was facially valid under *United States v. O'Brien*, 391 U.S. 367 (1968), being content- and viewpoint-neutral, narrowly tailored to achieve the significant governmental interest of improving the educational process, and leaving open ample alternative channels of communication. The plaintiffs appealed, arguing that the *O'Brien* standard only applied to expressive conduct and not to "pure speech," like distributing written materials, and that the "substantial disruption" test in *Tinker v. Des Moines Ind. Sch. Dist.*, 393 U.S. 503 (1969), applied to "pure speech."

The U.S. Court of Appeals for the Fifth Circuit affirmed with respect to the 2005 policy (but remanded claims regarding an earlier policy). "We have made plain that 'time, place, and manner' is the proper standard for evaluating content and viewpoint regulations of student speech." Pursuant to *U.S. v. O'Brien*, in order to have a valid time, place, and manner restriction, a regulation had to be content-and viewpoint-neutral, and be "narrowly tailored to serve a significant government interest, and … leave open ample alternative channels for communication of the information." The "regulation of speech during and immediately before the classroom instructional period [was] intended to facilitate the beginning of class without a wait for the distribution of [classroom] materials." The court found that there were ample alternative channels of communication: students could distribute religious materials before and after school, during recess, and even during school hours at designated tables. *Morgan v. Plano Indep. Sch. Dist.*, 589 F. 3d 740 (5th Cir. 2009).

Personnel and Employment

Age and Political Affiliation

Smith was the Superintendent of the City of Allentown Recreation Bureau. He had been appointed to that post in 2000 by the then mayor, a Republican. In 2001, a Democrat was elected as the new mayor. Smith continued to serve in his position, although some performance issues were raised by Pawlowski, his manager at the time. In 2004, a new manager was appointed and developed a performance plan for Smith. In early 2005, Pawlowski, a Democrat, announced his candidacy for mayor. Smith, a registered member of the Republican party, supported the Republican candidate (who was also the former mayor who had appointed him initially) and placed his election sign in his yard. Smith claimed that a campaign worker for Pawlowski told him that Pawlowski "viewed [Smith] as a political enemy[ ] of sorts" and believed that Smith had improperly attempted to influence two members of the City's recreation commission to support the Republican candidate's bid for mayor. The campaign worker recalled the conversation differently. In any event, Pawlowski was elected and appointed a new manager. That manager reviewed Smith's file, concluded that Smith had failed to achieve any of the goals set forth in the 2004 performance plan, and recommended that he be fired. The City Solicitor and the HR director both recommended against this (the City had a progressive discipline policy). Smith, who was 55 years old at the time, was told he lacked the skills necessary to perform his duties effectively, and that he was being given the option of resigning or retiring. Smith resigned. His replacement was 36 years old. Smith sued, claiming the City discriminated against him on the basis of his age in violation of the Age Discrimination in Employment Act (ADEA), 29 U.S.C. §§ 621-34, and on the basis of his political affiliation, in violation of his First Amendment rights.

On the age discrimination claim, the district court held that Smith failed to adduce evidence from which a reasonable jury could conclude that the defendants' proffered rationale for terminating him was a pretext for