

[DO NOT PUBLISH]

In the
United States Court of Appeals
For the Eleventh Circuit

No. 19-14387

Non-Argument Calendar

ROBERT L. VAZZO,
LMFT, individually and on behalf of his patients,
SOLI DEO GLORIA INTERNATIONAL, INC.,
individually and on behalf of its members, constituents and clients
d.b.a. New Hearts Outreach Tampa Bay,

Plaintiffs-Appellees,

DAVID H. PICKUP,
LMFT, individually and on behalf of his patients,

Plaintiff,

versus

CITY OF TAMPA, FLORIDA,

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Defendant-Appellant,

SAL RUGGIERO,
in his official capacity as Manager of the City of Tampa
Neighborhood Enhancement Division,

Defendant.

Appeal from the United States District Court
for the Middle District of Florida
D.C. Docket No. 8:17-cv-02896-WFJ-AAS

Before ROSENBAUM, LAGOA, and ED CARNES, Circuit Judges.

PER CURIAM:

We held this case in abeyance pending the issuance of the mandate in *Otto v. City of Boca Raton*, 981 F.3d 854 (11th Cir. 2020). In *Otto*, we held that city and county ordinances banning sexual orientation change efforts (“SOCE”) were unconstitutional under the First Amendment. 981 F.3d at 870. The City of Tampa’s SOCE ordinance here is substantively the same as the ordinances at issue in *Otto*. Accordingly, we are bound by our prior-panel-precedent rule to affirm the district court’s grant of summary judgment to the Plaintiffs-Appellees. *See Scott v. United States*, 890

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F.3d 1239, 1257 (11th Cir. 2018); *see also Aaron Priv. Clinic Mgmt. LLC v. Berry*, 912 F.3d 1330, 1335 (11th Cir. 2019) (acknowledging that we may affirm on any ground supported by the record, whether or not that ground was relied on or even considered by the district court).

AFFIRMED.¹

¹ The Plaintiffs-Appellees' motion to lift the stay is GRANTED. The Plaintiffs-Appellees' motion to strike the Appellant's reply brief and impose sanctions is DENIED. The Defendant-Appellant's motion to dismiss the appeal as moot is DENIED. The Plaintiffs-Appellees' motion to lift stay, for summary affirmance is DENIED AS MOOT, given our ruling.

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ROSENBAUM, J., Concurring

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ROSENBAUM, Circuit Judge, Concurring in the Judgment:

I agree that we are bound by our prior-panel-precedent rule to apply *Otto* here and affirm. Nevertheless, I continue to believe that *Otto* was wrongly decided for the reasons I explained in my dissent from the denial of rehearing en banc. *See Otto v. City of Boca Raton*, 41 F.4th 1271, 1285 (11th Cir. 2022) (Rosenbaum, J., dissenting). *See also Tingley v. Ferguson*, ___ F.4th ___, Nos. 21-35815, 21-35856, 2022 WL 4076121, *16–20 (9th Cir. Sept. 6, 2022).