

**UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT**

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING TO A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 28th day of October, two thousand twenty-six.

PRESENT:

BARRINGTON D. PARKER,
ALISON J. NATHAN,
Circuit Judges,
LEWIS A. KAPLAN,
*District Judge.**

John Beatty,

Plaintiff-Appellant,

v.

25-2143

**James Vafeades, Individually, and in his
capacity as Police Commissioner of the
Incorporated Village of Rockville Centre,**

* Judge Lewis A. Kaplan, of the United States District Court for the Southern District of New York, sitting by designation.

The Incorporated Village of Rockville Centre,

Defendants-Appellees.

FOR PLAINTIFF-APPELLANT:

WAYNE J. SCHAEFER, Schaefer Law
Group, P.C., Smithtown, NY.

FOR DEFENDANTS-APPELLEES:

CHELSEA WEISBORD, Sokoloff Stern LLP,
Carle Place, NY.

Appeal from a judgment of the United States District Court for the Eastern District
of New York (Gary R. Brown, *Judge*).

**UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED,
AND DECREED** that the judgment of the district court is **VACATED** and the matter is
REMANDED for further proceedings.

John Beatty appeals from the judgment of the district court granting summary
judgment to the defendants on his speech-based retaliation claims brought under 42
U.S.C. § 1983 and Article 8 of the New York State Constitution. Beatty also seeks
reinstatement of his state-law whistleblower claim, which the district court declined to
exercise supplemental jurisdiction over after granting summary judgment on Beatty's
§ 1983 claims. We assume the parties' familiarity with the underlying facts and
procedural history, to which we refer only as necessary to explain our decision.

This case arises from a chance encounter in a bagel shop. In 2017, Beatty, a sergeant of the Village of Rockville Centre Police Department, walked into Wantagh Bagel and saw his then-supervisor, Lieutenant James Vafeades, behind the counter. Over the ensuing weeks, Beatty regularly observed Vafeades' vehicle parked outside Wantagh Bagel, and he came to believe that Vafeades owned and operated it with two other officers who were Vafeades' subordinates. Concerned about possible conflicts of interest, Beatty mentioned his observations to Inspector Glenn Quinn, the department's second in command. Quinn then informed Police Commissioner Charles Gennario, who followed up with Beatty to ask what he had seen.

Beatty contends that months later, after Vafeades replaced Gennario as Police Commissioner, Vafeades retaliated against him for coming forward about the bagel shop. Among other things, Beatty asserts that he was passed over for a promotion. Beatty filed this lawsuit alleging unconstitutional retaliation for his speech. In an oral ruling, the district court granted summary judgment after concluding that the speech was unprotected because Beatty spoke as a government employee rather than as a private citizen.

We review the district court's grant of summary judgment without deference, construing the evidence in the light most favorable to Beatty and drawing all reasonable inferences in his favor. *See Alta Partners, LLC v. Getty Images Holdings, Inc.*, 165 F.4th 141,

148 (2d Cir. 2026). The dispositive issue below, and the issue to which we now limit our review—whether Beatty spoke as a government employee or a citizen—is “largely a question of law for the court.” *Jackler v. Byrne*, 658 F.3d 225, 237 (2d Cir. 2011). “[T]he heart of our analysis is whether the speech at issue is itself ordinarily within the scope of [the] employee’s duties.” *Shara v. Maine-Endwell Cent. Sch. Dist.*, 46 F.4th 77, 83 (2d Cir. 2022) (citation modified). In answering that question, we “examine the nature of the plaintiff’s job responsibilities, the nature of the speech, and the relationship between the two,” as well as “[o]ther contextual factors, such as whether the complaint was also conveyed to the public[.]” *Ross v. Breslin*, 693 F.3d 300, 306 (2d Cir. 2012). Our inquiry is “practical” and focused principally on an employee’s “day-to-day responsibilities” rather than his “formal job description.” *Long v. Byrne*, 146 F.4th 282, 292, 297 (2d Cir. 2025).

We have previously addressed the citizen-employee speech distinction in the context of police officers raising concerns about potential misconduct in their departments. In *Matthews v. City of New York*, 779 F.3d 167, 169 (2d Cir. 2015), the plaintiff informed his precinct’s commanding officers that supervisors had implemented a quota system for stops and arrests. Reversing the district court’s grant of summary judgment, we concluded that this speech fell on the “citizen” side of the line. *Id.* at 176. Two considerations led us to that determination.

First, we stressed that the plaintiff was employed to perform tasks such as responding to radio runs and going on patrol, not to report supervisors' misconduct, comment on precinct-wide policies, or raise concerns with precinct commanders. *Id.* at 174. Because these latter activities were not "part-and parcel" of the plaintiff's "regular job," engaging in them fell outside his official duties as a police officer. *Id.* Importantly, our conclusion was not altered by the fact that the patrol guide imposed on all officers an "absolute duty" to report misconduct. *Id.* Assuming the plaintiff's speech fell within that provision, we cautioned that such a "general duty to report misconduct" was not "determinative" and could not "control" the official-duties analysis; otherwise, "public employers could be encouraged to simply prescribe similarly general duties, thereby limiting such protection for wide swaths of employee speech." *Id.* at 175.

Second, we found instructive that the plaintiff "pursued the same avenue to complain about a precinct-wide policy as would a concerned civilian"—namely, raising issues with precinct commanders, who regularly attended community meetings with the public. *Id.* at 176. It did not matter that the plaintiff "had better access to his commanding officers than would ordinary citizens." *Id.* What mattered is that "the same or [] similar channel[s] exist[ed] for the ordinary citizen." *Id.*

Matthews controls this case. Turning first to Beatty's official duties, he was not employed to "monitor the conduct of [other] supervisors." *See id.* at 174. Rather, it is

undisputed that sergeants in the Rockville Centre Police Department are employed to supervise police officers. Beatty explained as much in his deposition, and his job description confirms that day-to-day reality, providing that “[s]upervisory officers are responsible and accountable for the proper performance of police duties by the Department members *under their supervision*.” Supp. App’x 129 (emphasis added). The record thus makes clear that when Beatty raised concerns regarding his supervisor’s conduct with different officers (none of whom were under Beatty’s own supervision), doing so was not “part-and-parcel of his regular job.” *Matthews*, 779 F.3d at 174 (citation modified). Indeed, the other officers’ business relationship outside of work in no way affected Beatty’s ability to carry out his own “core duties.” *See Weintraub v. Bd. of Educ. of City Sch. Dist. of City of N.Y.*, 593 F.3d 196, 203 (2d Cir. 2010).

Defendants resist this conclusion by stating that Beatty had a general duty to report violations of department rules. The district court similarly emphasized that fact. In *Matthews*, however, the plaintiff also had a “general duty to report misconduct,” and we found that duty insufficient because there was no evidence that “the investigation and reporting of misconduct [was] an integral part of the employee’s day-to-day job.” *Matthews*, 779 F.3d at 175. The same goes here with respect to investigating and reporting officers outside Beatty’s “assigned jurisdiction.” Supp. App’x 128. Defendants further contend that while the plaintiff in *Matthews* did not regularly interact

with commanding officers, Beatty often spoke with Quinn. We noted that fact in *Matthews* to stress that reporting concerns to commanding officers fell outside the plaintiff's typical duties. 779 F.3d at 174. Here, although Beatty "periodically stop[ped] by [Quinn's] office to chat," App'x 501, there is no indication that he reported to Quinn as part of his job responsibilities. To the contrary, the department manual tasks lieutenants, not sergeants, with "keep[ing] the Commissioner and [Inspector] informed about all matters of importance[.]" Supp. App'x 151.

The presence of comparable civilian analogues for Beatty's speech reinforces our conclusion. As in *Matthews*, Beatty made his remarks to commanding officers in person at Police Headquarters. Defendants contend that those in-person remarks were materially dissimilar to a written complaint that an anonymous individual filed with the Village's human resources department regarding the same issue. But the department manual specifies that "[a]ny complaint, regardless of category, may be lodged at Police Headquarters with the ranking supervisory officer on duty," and that "[c]omplaints shall be accepted in person, in writing, or by telephone." Supp. App'x 117. So the "same or a similar channel" for raising in-person complaints with high-ranking supervisors "exists for the ordinary citizen" as well. See *Matthews*, 779 F.3d at 176. To the extent that Beatty had greater access to his superiors, we explained in *Matthews* that "the relative degree of access [is not] material," as employees presumably "always have better access to senior

supervisors within their place of employment.” *Id.* In any event, although this factor “may be of some help in determining whether an employee speaks as a citizen, we have emphasized that the heart of our analysis is whether the speech at issue is itself ordinarily within the scope of an employee’s duties,” *Shara*, 46 F.4th at 83 (citation modified), and, as detailed above, Beatty’s speech fell outside his ordinary day-to-day duties. The non-binding decisions Defendants rely upon, many of which predate *Matthews*, do not compel a contrary conclusion.

Because the same error led the district court to grant summary judgment on all three of Beatty’s constitutional claims, and because it declined to exercise supplemental jurisdiction over the remaining whistleblower claim for lack of a federal anchor, we remand the case in its entirety for further proceedings. *See Long*, 146 F.4th at 301.

CONCLUSION

For the foregoing reasons, we **VACATE** the judgment of the district court and **REMAND** for further proceedings.

FOR THE COURT:
Catherine O’Hagan Wolfe, Clerk of Court