

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA**

Forrest Gray v. Cassie

No. 2:22-cv-0099-DC-JDP (P), Order (E.D. Cal. Mar. 4, 2025) · No. 2:22-cv-0099-DC-JDP (P) · Decided
March 5, 2025

OPINION

(PC) Gray v. Cassie

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 11 FORREST GRAY, Case No. 2:22-cv-0099-DC-JDP (P) 12 Plaintiff, 13 v. ORDER

14 CASSIE,

15 Defendant. 16

17 Plaintiff is a state inmate proceeding without counsel in this civil rights action brought 18
under 42 U.S.C. § 1983. Plaintiff has filed a motion seeking to proceed with a bench trial, as 19
opposed to a jury trial.¹ ECF No. 62. Defendant opposes, arguing that he properly asserted his 20
right to a jury trial in his answer and that because plaintiff brought this action under 42 U.S.C. 21
§ 1983, defendant has the right to a jury trial. ECF No. 63. 22 The Seventh Amendment provides
that “[i]n Suits at common law, where the value in 23 controversy shall exceed twenty dollars, the
right of trial by jury shall be preserved” U.S. 24 Const. amend. VII. This constitutional
guarantee “appl[ies] to actions enforcing statutory rights, 25 and requires a jury trial upon
demand, if the statute creates legal rights and remedies, enforceable 26 in an action for damages in
the ordinary courts of law.” *Curtis v. Loether*, 415 U.S. 189, 194 27 1 Both plaintiff’s initial and
the operative complaint request a jury trial. See ECF No. 1 & 28 13. 1 | (1974). While 42 U.S.C. §
1983 does not expressly provide for the right to a jury trial, see *City of 2 | Monterey v. Del Monte*
Dunes at Monterey, Ltd., 526 U.S. 687, 707 (1999), the Supreme Court 3 | has held that such an
action “seeking legal relief is an action at law within the meaning of the 4 | Seventh Amendment,”
id. at 709. 5 Rule of Civil Procedure 38 and Local Rule 201 govern the procedure for when a
demand 6 | is made for a jury trial. Federal Rule of Civil Procedure 38 provides in the relevant
part: 7 (b) Demand. On any issue triable of right by a jury, a party may demand a jury trial by
serving the other parties with a written 8 demand—which may be included in the pleadings—no
later than 14 9 days after the last pleading directed to the issue is served (d) Waiver;
Withdrawal. A party waives a jury trial unless its 10 demand is properly served and filed. A proper
demand may be withdrawn only if the parties consent. 12 Defendant filed an answer with a
demand for a jury trial, ECF No. 36 at 5, and has not 13 | withdrawn his demand for a jury trial,

ECF No. 63. Therefore, because defendant has a right to a 14 | jury trial in this action and he has
complied with the procedures for demanding a jury trial, 15 | plaintiff's motion is denied. 16
Accordingly, it is hereby ORDERED that plaintiff's motion for a bench trial, ECF No. 62, 17 | is
DENIED. 18 19 IT IS SO ORDERED. 20 (— Dated: _ March 4, 2025 q———

21 JEREMY D. PETERSON

9 UNITED STATES MAGISTRATE JUDGE

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