

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA

Robert Gonzalez v. Raul Sanchez, et al.

No. CV-25-01737-PHX-ROS (D. Ariz. Feb. 9, 2026) · No. CV-25-01737-PHX-ROS · Decided February 9, 2026

OPINION

1 WO 2 3 4 5 6 IN THE UNITED STATES DISTRICT COURT 7 FOR THE DISTRICT OF
ARIZONA 8 9 Robert Gonzalez, No. CV-25-01737-PHX-ROS 10 Plaintiff, ORDER 11 v. 12 Raul
Sanchez, et al., 13 Defendants. 14 15 Plaintiff Robert Gonzales works as a Correctional officer
with the Arizona 16 Department of Corrections, Rehabilitation & Reentry (“ADCRR”) at the
Yuma State 17 Prison Complex in San Luis, Arizona.

(Doc. 18 at 2). Defendants Sanchez and Bonilla are 18 police officers employed by ADCRR and
Defendants Bonillas and Hau are employed in 19 the ADCRR Special Services Unit (“SSU”).
Plaintiff alleges Defendants, acting under 20 color of state law, violated his constitutional rights
when they detained him and conducted 21 searches of his vehicle and home; Plaintiff brings
claims under 42 U.S.C. § 1983.

22 Defendants seek dismissal of all claims as alleged in the First Amended Complaint 23 (“FAC”)
pursuant to Federal Rule of Civil Procedure 12(b)(6).¹ (Doc. 19, “Motion”). 24 I. Background 25
As alleged in the FAC, on April 7, 2025, just before 6 a.m., Plaintiff arrived at work 26 at the
Yuma State Prison Complex in San Luis.

Before he went through the metal detector 27 1 Defendants also cite Rule 12(b)(1), which
provides for dismissal of a complaint for lack 28 of subject matter jurisdiction. Defendants fail to
address this in any way, leading the Court to conclude that its inclusion in the Motion was an
oversight. 1 to enter the prison, Defendants Sanchez and Bonilla, ADCRR criminal investigators,
seized 2 and handcuffed Plaintiff and informed him they had a warrant for his phone, his vehicle,
3 and his home.

The warrant was obtained two days earlier based upon an affidavit Defendant 4 Sanchez
completed stating that he had heard from inmates that Plaintiff was involved in 5 money
laundering and the transportation of drugs and contraband into the prison.

The 6 warrant application stated that Plaintiff worked in the prison, and Plaintiff’s girlfriend, 7
Jenesis Murillo, was his emergency contact and the emergency contact of her brother, an 8 inmate
at the prison where Plaintiff worked. Plaintiff alleges that Defendant Sanchez 9 “falsely
represented” he had observed Jenesis and her brother “utilizing codes discussing 10 large amounts
of monetary transactions and business pertaining to the introduction of 11 narcotics.” (Doc.

18 ¶28). 12 After seizing Plaintiff's phone and searching the vehicle, Defendants Sanchez and 13 Bonilla instructed Defendants Bonillas and Hau to take custody of plaintiff. Defendants 14 Bonillas and Hau placed Plaintiff in the back of an ADCRR vehicle and drove him to a 15 Carl's Jr. parking lot, where they kept him detained while Defendants Sanchez and Bonilla 16 searched the addresses listed on the warrant.

The addresses were for Plaintiff and his 17 girlfriend's parents' homes, and Plaintiff informed Defendants that he and Jenesis resided 18 at an entirely different address 19 II. Failure to Meet and Confer 20 Defendant's Motion (Doc. 19) and Plaintiff's Response (Doc. 21) establish the 21 undisputed facts surrounding the filing of the Motion to Dismiss.

After 5:00p.m. on August 22 12, 2025, Defendants sent an email to Plaintiff's Counsel "asking to confer on a proposed 23 motion to dismiss," (Doc. 21), On August 12, 2025, Defendants filed this Motion, along 24 with a Good Faith Consultation Certificate that stated: 25 "Counsel for Defendants Raul Sanchez, Jesus Bonilla, Oscar Bonillas, and Eric Hau, ("State Defendants"), pursuant to 26 Local rule 12.1(c), certifies that on August 12, 2025, he conferred with Plaintiff's counsel, via email, and outlined 27 State Defendants' defenses to Plaintiff's First Amended Complaint.

Plaintiff's counsel did not respond to the email. 28 Plaintiff and State Defendants have fundamental differences on the legal issues necessitating the filing of State Defendants' 1 Motion to Dismiss Plaintiff's First Amended Complaint." 2 (Doc. 20) (emphasis added). Local Rule 12.1(c) provides no motions "pursuant to Federal 3 Rule of Civil Procedure 12(b)(6) ...will be considered or decided unless the movant 4 notified the opposing party of the issues asserted in the motion and the parties were unable 5 to agree that the pleading was curable in any part by a permissible amendment offered by 6 the pleading party." L.R.

12.1(c) (emphasis added). Rule 12(b)(6) motions that do not 7 comply with this requirement "may be stricken summarily." (Id.) Counsel for both parties 8 were additionally made aware of this requirement in the Court's May 22, 2025, Order 9 stating, "preliminary motions aimed at the pleadings are discouraged if the defect can be 10 cured by filing an amended pleading...motions to dismiss pursuant to Fed.

R. Civ. P. 11 12(b)(6)...must contain a certification of conferral indicating the parties have conferred 12 to determine whether an amendment could cure the deficient pleading but have been unable 13 to agree the pleading is curable by a permissible amendment." (Doc. 6) (emphasis added). 14 Motions not in compliance "are subject to be stricken on the Court's motion." (Id.).

15 Plaintiffs argue the Motion should be stricken because "Defendants failed to meet 16 and confer in good faith" and "never gave Plaintiff's counsel a meaningful opportunity to 17 actually meet and confer." (Doc. 21 at 2). 18 Defendants reply, "Counsel for State Defendants did comply

with this Court's May 19 22, 2025, Order...State Defendants did not know that Plaintiff's counsel would not consult 20 his email before the motion was filed." Defendants further argue "in any event, based on 21 Plaintiff's Response here, it is apparent that Plaintiff would not have dismissed his 22 Amended Complaint or amended it to withdraw any of his claims." Finally, Defendants 23 assert "Plaintiff is suing four law enforcement officers for executing a warrant that was 24 signed by a neutral and detached magistrate on the conclusory plea that the warrant was 25 obtained through deception.

Based on the circumstances and the Amended Complaint 26 allegations, a motion to dismiss is warranted." (Doc. 22). 27 By Defendants' apparent argument that Plaintiff's Response to the motion renders 28 the requirement moot, Defendants appear to believe that motion practice is an acceptable 1 substitute for a meet and confer requirement. And implicitly, Defendants appear to argue, 2 citing no authority, that where the undisputed facts are (1) the four defendants are "law 3 enforcement officers, (2) a detached, neutral magistrate signed the warrant, and (3) 4 Plaintiff's allegations of deception are "conclusory," a meet and confer in accordance with 5 Local Rule 12.1(c) is never required.

Such an argument is so extraordinary it is not worthy 6 of a response. The Court's docket is not a venue for individual communication between 7 parties. 8 Defense counsel is reminded the core of the Federal Rules of Civil Procedure is the 9 fundamental rule that the parties do not engage in a needless consumption of time. Federal 10 Rule of Civil Procedure 1 states in part: "These rules govern the procedure in all civil 11 actions... to secure the just, speedy and inexpensive determination." This rule was further 12 elucidated in the 2015 Amendments Advisory Notes that "most lawyers cooperate to 13 achieve these ends.

But discussions... regularly include pleas to discourage over-use, 14 misuse, and abuse of procedural tools that increase cost and result in delay. Effective 15 advocacy is consistent with—and indeed depends upon—cooperative and proportional use 16 of procedure." 17 The Rules of Practice and Procedure of the District Court of Arizona were created 18 and adopted for the same reasons and goals.

See, e.g., *Wine Education Counsel v. Arizona 19 Rangers*, 2020 WL 7352632 ("the District of Arizona has promulgated Local Rule of Civil 20 Procedure 12.1(c) in an effort to promote communication and attempted resolution by 21 opposing counsel prior to parties filing motions to dismiss"); *Puckett v. United States*, 704 22 F.Supp.3d 998, 1002 (noting the goal of Local Rule 56.1 is to "simplif[y] theprocess" and 23 criticizing Plaintiff's violation of the rule because it "hinders the effective resolution of 24 [the] Motion.").

Rule 12.1(c) reads unambiguously that an attorney who proposes to file a 25 motion to dismiss is prohibited from filing it unless and until he or she engages opposing 26 counsel and they were "unable to agree that the pleading was curable." There is no good 27 faith interpretation of this

rule that excuses a movant altogether from voice to voice, face 28 to face, email to email, formal or other informal communication with opposing counsel 1 about the merits of the motion.

Further, there is no exception for emergencies, which would 2 clearly be inapplicable here. What is readily apparent is that an after-hours email sent less 3 than twenty-four hours before filing a Motion does not constitute good faith attempt to 4 meet, confer, and resolve potential issues. 5 Defendants did not substantively comply with Local Rule 12.1(c) or the Court's 6 May 22, 2025, Order.

The Court will summarily deny the Motion to Dismiss on this 7 ground. However, as discussed below, the Motion would be denied even if it were not so 8 barred. 9 III. Motion to Dismiss 10 A complaint must contain a "short and plain statement of the claim showing that the 11 pleader is entitled to relief." Fed. R. Civ. P. 8(a)(2). "To survive a motion to dismiss, a 12 complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief 13 that is plausible on its face.'" *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl.*

14 *Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (internal citations omitted)). If "the well- 15 pleaded facts do not permit the court to infer more than the mere possibility of misconduct, 16 the complaint" has not adequately shown the pleader is entitled to relief. *Id.* at 679. Federal 17 courts ruling on a motion to dismiss "must take all of the factual allegations in the 18 complaint as true," but they "are not bound to accept as true a legal conclusion couched as 19 a factual allegation." *Id.* at 678 (quoting *Twombly*, 550 U.S. at 555) (internal quotations 20 omitted).

21 Plaintiff's Amended Complaint alleges civil rights violations under 42 U.S.C. § 22 1983, judicial deception, and false arrest or imprisonment under state law. Defendant 23 moves to Dismiss these claims "on the grounds that (1) State Defendants' search warrant 24 affidavit is supported by probable cause, (2) the Justice Court issued a valid search warrant, 25 (3) State Defendants had probable cause to detain Plaintiff, and (4) Plaintiff failed to plead 26 facts for a judicial deception claim." (Doc.

19 at 1). 27 "The elements of an action under Section 1983 are (1) the denial under color of state 28 law (2) of a right secured by the Constitution and laws of the United States." *Smith v. 1* *Cremens*, 308 F.2d 187, 190 (9th Cir. 1962). Whether Defendants acted under color of state 2 law is not in dispute. Plaintiff alleges defendants investigated for only three days prior to 3 obtaining the warrant, finding no evidence of wrongdoing by Plaintiff, and sought the 4 warrant based on information from unnamed inmate informants and the fact that Plaintiff's 5 girlfriend was the emergency contact for both Plaintiff and her brother.

Furthermore, 6 Plaintiff alleges Defendant Sanchez made false representations to support his warrant 7 application. These facts, taken as true, can support the plausible inferences that Defendants 8 obtained a warrant based on judicial deception and detained Plaintiff without

probable 9 cause. 10 Plaintiff alleges despite his informing Defendants of their mistake regarding his 11 address, they kept him handcuffed in the vehicle for six hours while they searched the 12 residences and, only after that, extracted his consent to search his home rather than being 13 forced to remain handcuffed in the vehicle for four more hours.

These facts as alleged can 14 support the plausible inference that the circumstances were sufficiently coercive to render 15 Plaintiff's consent to search involuntary. On a Motion to Dismiss, all facts alleged in the 16 Complaint are assumed true and all reasonable inferences at made in Plaintiff's favor. 17 Defendants do not attempt to show that these facts, if true, would not state a claim 18 for the denial of Plaintiff's constitutional rights but rather offer other facts, whether 19 admissible or not, to support their interpretation of the facts by arguing that the warrant 20 affidavit did not contain false representations, the warrant was supported by probable 21 cause, and the circumstances of Plaintiff's detention and consent to search did not 22 constitute coercion.

Defendants argue the merits and are inappropriate at the Motion to 23 Dismiss stage. Plaintiff is not required to prove his claims on a Motion to Dismiss. 24 Assuming the truth of the facts as alleged and viewing them in the light most favorable to 25 Plaintiff, the facts are sufficient to support a plausible claim for relief. 26 Accordingly, 27 ... 28 ... 1 IT IS ORDERED the Motion to Dismiss (Doc.

19) is DENIED. 2 Dated this 9th day of February, 2026. 3 fo - 4 ——. 6 Senior United States District Judge 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 -7-