

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

**Salas v. Pfeiffer**

No. 1:21-cv-00669-KES-EPG (E.D. Cal. Sept. 1, 2025) · No. 1:21-cv-00669-KES-EPG (PC) · Decided  
September 2, 2025

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**OPINION**

(PC) Salas v. Allison

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

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11 RAFAEL SALAS, No. 1:21-cv-00669-KES-EPG (PC)

12 Plaintiff, ORDER ADOPTING FINDINGS AND  
RECOMMENDATIONS

13 v. Docs. 75, 87, 95, 96 14 C. PFEIFFER, et al., 15 Defendants. 16 17 18 Plaintiff Rafael Salas  
is a state prisoner proceeding pro se in this civil rights action filed 19 pursuant to 42 U.S.C. §  
1983. The matter was referred to a United States magistrate judge 20 pursuant to 28 U.S.C. §  
636(b)(1)(B) and Local Rule 302. 21 On December 12, 2022, defendants moved for summary  
judgment on all plaintiff's 22 claims. Doc. 75. On September 26, 2023, the assigned magistrate  
judge entered findings and 23 recommendations recommending that defendants' motion for  
summary judgment be granted in 24 part and denied in part. Doc. 87. Specifically, the findings  
and recommendations recommended 25 that defendants' motion for summary judgment as to  
plaintiff's request for injunctive relief, 26 including his RLUIPA claim against defendants  
Thomas, Cortez, and Pfeiffer in their official 27 capacities, be granted. Id. at 23. The findings and  
recommendations recommended that 28 defendants' motion for summary judgment be denied in  
all other respects and that, therefore, this 1 case should proceed on plaintiff's Fourteenth  
Amendment due process claim and plaintiff's First 2 Amendment free exercise claim against  
defendants Thomas, Cortez, and Pfeiffer. Id. The 3 findings and recommendations were served on  
the parties and contained notice that any 4 objections thereto must be filed within fourteen days.  
Id. Defendants filed objections on

5 October 4, 2023. Doc. 88.

6 In their objections, defendants contend that the magistrate judge erred in the findings and 7  
recommendations by (1) finding plaintiff could not have obtained a declaratory judgment from 8  
state court that he had never been married to Flores; (2) relying on a finding that defendants did 9  
not present any evidence that they would have accepted a court document that indicated that Salas

10 was not married to Flores; (3) failing to consider defendant's legitimate concerns regarding how 11 allowing Salas to marry Tower could have affected Flores if Salas and Flores were indeed 12 married; and (4) concluding that defendants are not entitled to qualified immunity. Doc. 88 at 14. 13 In accordance with the provisions of 28 U.S.C. § 636(b)(1), this Court has conducted a de 14 novo review of the case. Having carefully reviewed the file, the Court concludes the findings and 15 recommendations are supported by the record and proper analysis. 16 First, defendants claim that Salas could have obtained a declaratory judgment that he has 17 never been married to Flores pursuant to section 1060 of the California Code of Civil Procedure.

18 Doc. 88 at 8–9. That statute provides that “[a]ny person interested . . . under a contract, who 19 desires a declaration of his or her rights or duties with respect to another . . . may, in cases of 20 actual controversy relating to the legal rights and duties of the respective parties, bring an original 21 action or cross-complaint in the superior court for a declaration of his or her rights and duties in 22 the premises, including a determination of any question or construction or validity arising under 23 the . . . contract.” Cal. Civ. Proc. Code § 1060. As a preliminary issue, defendants raised this 24 argument for the first time, briefly, only in their reply brief in support of their summary judgment 25 motion, before raising it more fully in their objections to the magistrate judge's findings and 26 recommendations.<sup>1</sup> Given that plaintiffs failed to assert this argument in their motion for 27 1 In their motion for summary judgment, defendants did not raise the argument that plaintiff could 28 have obtained such declaratory relief; rather, they argued that plaintiff could have initiated a 1 summary judgment, the Court need not address it. *Zamani v. Carnes*, 491 F.3d 990, 997 (9th Cir. 2 2007) (district court need not consider arguments raised first time in reply brief); *Brown v. Roe*, 3 279 F.3d 742, 745–46 (9th Cir. 2002) (district court has discretion, but is not required, to consider 4 arguments presented for first time in objections to findings and recommendations, especially 5 where such new arguments are proffered by a represented party rather than a pro se litigant). 6 In any event, defendants fail to establish that plaintiff could have obtained such a 7 declaratory judgment. “Declaratory relief under [section] 1060 requires an actual controversy 8 between the parties [to the contract].” See *Lakatos v. RLI Corp.*, 736 F. Supp. 3d 796 (C.D. Cal. 9 2024) (citing Cal. Civ. Proc. Code § 1060; then citing *Connerly v. Schwarzenegger*, 146 Cal.

10 App. 4th 739, 752, 53 Cal. Rptr. 3d 203 (2007) (“A court may not grant declaratory relief in the 11 absence of an actual controversy between adversarial parties.”)). Neither party contends that 12 there is any dispute between Salas and Flores in which Salas and Flores seek to adjudicate their 13 rights with respect to a purported contract between them. Indeed, Salas asserts the two never 14 married and that there never was any marriage contract between them as to which a court could 15 determine the validity. 16 The magistrate judge also properly addressed and dismissed defendants' contention that 17 plaintiff could have initiated annulment proceedings to obtain a court order indicating that he was 18 not married to Flores. Doc. 87 at 13. Defendant's objections do not undermine the magistrate 19 judge's conclusion that an annulment action does not appear to be

appropriate in this situation.

20 Doc. 88 at 9–10. That is, an annulment action is appropriate “where there has been a marriage,”  
21 but the marriage is “voidable so as to be adjudged a nullity for various reasons, including  
where a 22 party is underage, a party was of unsound mind, or there was fraud,” which is not the  
case here.

23 Doc. 87 at 13. Defendants have not established that a party could pursue an annulment action  
in

24 state court where the party’s position is that no purported marriage ever occurred at all, yet that  
is 25 what defendants claimed in their motion that Salas should have done. 26 proceeding for an  
annulment pursuant to section 2010 of the California Family Code to prove he 27 was not  
married. See generally Doc. 75. In their reply brief, defendants briefly asserted for the first time  
that plaintiff “could have obtained a court declaratory judgment order,” but did not cite 28 to Cal.  
Civ. Proc. Code § 1060. Doc. 86 at 3, 5. 1 Defendants further contend that the magistrate judge  
erred in not adequately considering 2 the concerns defendants raised in their briefing about the  
potential effect on Flores of allowing 3 Salas to marry Tower, if Flores had in fact been married to  
Salas. Doc. 88 at 13–14. However, as 4 the magistrate judge correctly noted, the third Turner  
factor concerns the “impact accommodation 5 of the asserted constitutional right will have on  
guards and other inmates, and on the allocation of 6 prison resources generally,” not the entirely  
hypothetical impact on a third party who has made no 7 such claim of prejudice. See Doc. 87 at  
15. To the extent defendants argue that the magistrate 8 judge should have considered the impact  
on Flores as a legitimate governmental interest, 9 defendants fail to explain how that should affect  
the conclusion of the findings and 10 recommendations. There is no question that the state has a  
valid interest in preventing bigamy for 11 a variety of reasons—which likely includes that a  
person engaging in various marriages would 12 affect the others involved in those marriages.  
However, as the findings and recommendations 13 note, plaintiff does not bring a facial challenge  
to the regulation or assert that the government 14 does not have such a valid interest generally;  
plaintiff brings only an as-applied challenge to how 15 the regulations have been applied to  
plaintiff and his circumstances. 16 Finally, defendants object that the findings and  
recommendations erred in concluding that 17 they are not entitled to qualified immunity. Doc. 88  
at 14–18. Specifically, defendants contend 18 that precedent does not clearly establish that their  
actions were unlawful. *Id.* at 10. Defendants’ 19 argument is unpersuasive, as clearly established  
law prohibits each element of defendants’ alleged 20 conduct and makes the unlawfulness of the  
overall behavior apparent. 21 As the findings and recommendations also note, “[t]he doctrine of  
qualified immunity 22 protects government officials from liability for civil damages insofar as  
their conduct does not 23 violate clearly established statutory or constitutional rights of which a  
reasonable person would 24 have known.” *Pearson v. Callahan*, 555 U.S. 223, 231 (2009)  
(quotation omitted). The qualified 25 immunity inquiry involves two questions: “(1) whether the  
facts, taken in the light most favorable 26 to the non-moving party, show that the officials’ conduct

violated a constitutional right, and (2) 27 whether the law at the time of the challenged conduct clearly established that the conduct was 28 unlawful.” *Felarca v. Birgeneau*, 891 F.3d 809, 815 (9th Cir. 2018). An official may be denied 1 qualified immunity only if “the clearly established right [violated is] defined with specificity. 2 . . . An officer cannot be said to have violated a clearly established right unless the right’s 3 contours were sufficiently definite that any reasonable official in the defendant’s shoes would 4 have understood that he was violating it.” *City of Escondido v. Emmons*, 586 U.S. 38, 42–43 5 (2019). 6 It need not be shown “that the very action at issue [has] been held unlawful before 7 qualified immunity is shed. On the contrary, [officials] can still be on notice that their conduct 8 violates established law even in novel factual circumstances.” *Blankenhorn v. City of Orange*, 9 485 F.3d 463, 481 (9th Cir. 2007) (citations omitted). “It is enough ‘if in the light of pre-existing 10 law the unlawfulness [is] apparent.’” *Inouye v. Kemna*, 504 F.3d 705, 715 (9th Cir. 2007) (citing 11 *Wilson v. Layne*, 526 U.S. 603, 615 (1999)). This ensures that “[a]n officer is not entitled to 12 qualified immunity on the grounds that the law is not clearly established every time a novel 13 method is used to inflict injury.” *Rodriguez v. County of Los Angeles*, 891 F.3d 776, 796 (9th Cir. 14 2018) (citation omitted). 15 Plaintiff alleges that defendants sent him on an impossible task by requiring a document 16 proving he was never married, which defendants knew did not exist. Compl. ¶¶ 15–16. There is 17 a genuine dispute as to whether defendants knew the documents they required did not exist, and 18 therefore, sent plaintiff on an impossible task. On defendants’ motion for summary judgment, the 19 Court must examine the facts in the light most favorable to Salas. *Anderson v. Liberty Lobby, 20 Inc.*, 477 U.S. 242, 255 (1986). It is clearly established that using the powers of government to 21 require impossible tasks is arbitrary and unconstitutional. See *Messina v. U.S. Citizenship & 22 Immigr. Servs.*, No. CIV.A. 05CV73409DT, 2006 WL 374564, at \*6 (E.D. Mich. Feb. 16, 2006) 23 (“It is arbitrary and capricious to require compliance with a regulation when compliance is 24 impossible.”).<sup>2</sup> Since requiring an impossible task is clearly established as arbitrary, such a task 25 2 See also *In re Two Appeals Arising Out of San Juan Dupont Plaza Hotel Fire Litig.*, 994 F.2d 956, 961 (1st Cir. 1993) (“The law does not require litigants to run fools’ errands. Thus, a party 26 who forgoes an obviously futile task will not ordinarily be held thereby to have waived 27 substantial rights.”); *Franki Found. Co. v. Alger–Rau & Assocs. Inc.*, 513 F.2d 581, 587 (3d Cir. 1975) (refusing to allow waiver to be grounded in a party’s dereliction of a futile task); *Northern 28 Heel Corp. v. Compo Indus., Inc.*, 851 F.2d 456, 461 (1st Cir. 1988) (“The law should not be 1 cannot serve a legitimate penological goal or constitutional interest. See *Rizzo v. Dawson*, 778 F. 2 2d 527, 532 (9th Cir. 1985) (claiming that an action is arbitrary sufficiently alleges the absence of 3 any legitimate correctional goal).<sup>3</sup> And only legitimate penological goals may justify burdening a 4 prisoner’s constitutional right to marry. *Turner v. Safley*, 482 U.S. 78, 95 (1987). Therefore, pre- 5 existing caselaw clearly established that requiring the completion of an impossible task was 6 arbitrary and thus not a legitimate reason to burden a prisoner’s right to marry. Accordingly, 7 defendants are not entitled to qualified immunity on this ground. 8 Next,

Cortez specifically claims that she is entitled to qualified immunity as to the 9 allegation that she refused to assist plaintiff because of his fiancée's race. Cortez argues that 10 failing to assist plaintiff is not a constitutional violation, as, while plaintiff had a right to marry, 11 he had no right to Cortez's assistance. Doc. 88 at 12–13; see also *Harris v. McRae*, 448 U.S. 297, 12 317–18 (1980) (“[a]lthough the liberty protected by the Due Process Clause affords protection 13 against unwarranted government interference. . . , it does not confer an entitlement to such 14 [government assistance] as may be necessary to realize all the advantages of that freedom”). 15 However, it is clearly established that “even though a person has no ‘right’ to a valuable 16 governmental benefit and even though the government may deny him the benefit for any number 17 of reasons, there are some reasons upon which the government may not rely. It may not deny a 18 benefit to a person on a basis that infringes his constitutionally protected interests. . . .” *Perry v. Sindermann*, 408 U.S. 593, 597 (1972); see also *Arizona Students’ Ass’n v. Arizona Bd. of Regents*, 824 F.3d 858, 869 (9th Cir. 2016) (“[A] state official may not retaliate against a person 21 construed idly to require parties to perform futile acts. . . .”); *United States v. Smith*, 50 F.3d 18 (9th Cir. 1995) (“A prosecution is fundamentally unfair if it is legally impossible for the 22 defendant to perform an act required by law.”). 23 3 See also *Wolff v. McDonnell*, 418 U.S. 539, 558 (1974) (due process protects against arbitrary 24 actions curtailing prisoners’ liberty); *Taituave v. California Dep’t of Corr. & Rehab.*, No. 519CV01414JVSRAO, 2020 WL 6051330, at \*1 (C.D. Cal. May 5, 2020) (“The arbitrary 25 rejection of plaintiff’s grievance did not advance a legitimate penological goal.”); *Farvela v. Barth*, No. 216CV00831RFBPAL, 2018 WL 3469014, at \*2 (D. Nev. July 18, 2018) (“[T]his 26 arbitrary and capricious decision cannot serve a legitimate penological purpose.”); *TLC 27 Development, Inc. v. Town of Branford*, 855 F. Supp. 555, 558 (D. Conn. 1994) (in the context of property, “[a] finding of arbitrariness not only establishes a due process violation but precludes a 28 defense of qualified immunity”) (citation omitted). 1 by depriving him of a valuable government benefit . . . even if the aggrieved party has no 2 independent or affirmative right to that government benefit . . . on a basis that infringes his 3 constitutionally protected interests.”) (citations omitted). 4 Given that California empowered Cortez as a government employee to assist prisoners, 5 Cortez could not selectively deny plaintiff the benefit of that assistance solely based on a 6 constitutionally protected interest such as his fiancée's race. See *Loving*, 388 U.S. at 11 (finding 7 protected interest in freedom from racial classifications in marriage); *Palmore v. Sidoti*, 466 U.S. 8 429, 432 (1984) (government may not consider race in marriage to determine couple's rights); 9 *Johnson v. California*, 543 U.S. 499, 507 (2005) (racial classifications in prisons must still pass 10 strict scrutiny); see also *DeShaney v. Winnebago Cnty. Dep’t of Soc. Servs.*, 489 U.S. 189, 197 11 n.3 (1989) (“The State may not, of course, selectively deny its protective services to certain 12 disfavored minorities without violating the Equal Protection Clause.”). Therefore, plaintiff has 13 sufficiently alleged that Cortez's actions violated clearly established law, and Cortez is thus not 14 entitled to qualified immunity.<sup>4</sup> 15 Accordingly, 16 1. The findings and recommendations issued on September 26,

2023, Doc. 87, are 17 adopted in full; 18 2. Defendants' motion for summary judgment, Doc. 75, is granted in part and denied 19 in part; 20 3. Summary judgment is denied as to plaintiff's Fourteenth Amendment due process 21 claim and First Amendment free exercise claim against defendants Thomas, 22 Cortez, and Pfeiffer; 23 4. Defendants motion for summary judgment is granted as to plaintiff's request for 24 4 Plaintiff also filed a motion for oral argument on this matter, Doc. 95, a motion to expedite a 25 ruling on the findings and recommendations, Doc. 96, and a further motion seeking a ruling on the findings and recommendations, Doc. 97. In light of this Order, which adopts the findings and 26 recommendations, those motions are denied as moot. The Court recognizes plaintiff's 27 understandable frustration with the time for resolution of this matter. Despite the Court's diligent efforts, this matter has unfortunately experienced delays due to the impacted caseload in the 28 Eastern District of California. 1 injunctive relief, including his RLUIPA claim against defendants Thomas, Cortez, 2 and Pfeiffer in their official capacities; 3 5. Plaintiff's motion to have this matter heard at oral argument, Doc. 95, and motions 4 to expedite ruling, Docs. 96 and 97, are denied as moot; and 5 6. This matter is referred back to the assigned magistrate judge for further 6 proceedings. 7 8

g | SO ORDERED. \_

10 Dated: \_ September 1, 2025 4h

UNITED STATES DISTRICT JUDGE

12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28