

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Cesar N. Hernandez v. A. Constable, et al.

Hernandez v. Constable · No. 2:19-cv-02195-DC-SCR · Decided October 16, 2025

SUMMARY

The United States District Court for the Eastern District of California addresses several pro se plaintiff filings before trial in a 42 U.S.C. § 1983 action alleging deliberate indifference to serious medical needs. The court denies the plaintiff’s request to introduce prior summary-judgment orders, denies his untimely motion to strike affirmative defenses, denies as moot his objection to a substituted witness, and denies his request for a subpoena. The court grants his request for jury instructions.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Dena Coggins
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	October 16, 2025
DOCKET	2:19-cv-02195-DC-SCR
DISPOSITION	other
PROCEDURAL POSTURE	Pretrial order resolving Plaintiff's evidentiary motion, motion to strike affirmative defenses, objection to a proposed trial witness, request for a subpoena, and request for jury instructions in an action proceeding to jury trial under 42 U.S.C. § 1983.
STANDARD OF REVIEW	The court applied Federal Rules of Evidence 401 and 403 to the proposed trial exhibits and Federal Rule of Civil Procedure 12(f)(2) to the motion to strike affirmative defenses. The court also applied the requirements in the final pretrial order governing the disclosure and use of previously unidentified witnesses.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Cesar N. Hernandez v. A. Constable, S. Sharma, J. Serwanga, et al.

TOPICS

- civil procedure
- evidence
- relevance
- affirmative defenses
- jury instructions

PRACTICE AREAS

Civil procedure

Evidence

Prisoner civil rights

Trial practice

QUESTIONS PRESENTED

1. Whether the court's prior summary-judgment orders were relevant and admissible as trial evidence.
2. Whether Plaintiff's motion to strike Defendants' affirmative defenses under Federal Rule of Civil Procedure 12(f) was timely.
3. Whether Plaintiff's objection to Elizabeth Campos being called as a trial witness remained justiciable after Defendants removed her from their updated witness list.
4. Whether Plaintiff was entitled to a subpoena for a witness not identified in the final pretrial order.
5. Whether Plaintiff should receive copies of the civil jury instructions before trial.

HOLDINGS

1. The court denied Plaintiff's request to introduce the court's prior summary-judgment orders as evidence because their inclusion would be irrelevant or, alternatively, would create a substantial risk of confusing the issues and misleading the jury.
2. A motion to strike affirmative defenses raised in an answer must be filed within 21 days after service of the answer when a response to the answer is not allowed; Plaintiff's motion was untimely and was denied.
3. Plaintiff's objection to Elizabeth Campos being called as a trial witness was denied as moot because Defendants' updated trial witness list no longer identified her as a witness.
4. The court denied Plaintiff's request for a subpoena for Realious Cyprian because he was not listed in the final pretrial order and Plaintiff failed to make the showing required by that order for permitting an undisclosed witness to testify.
5. The court granted Plaintiff's request for jury instructions and stated that it would provide all parties with a copy of the civil jury instructions during trial.

KEY QUOTATIONS

“A court may grant summary judgment on a claim if the moving party shows “[t]here is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.”” (at 2)

“Because a response to an answer is not allowed, a motion to strike affirmative defenses raised in an answer must be filed within 21 days after service of the answer.” (at 2)

FACTUAL BACKGROUND

Hernandez sought to introduce the court's prior findings and recommendations and order denying Defendants' motion for summary judgment as trial exhibits. He also sought to strike Defendants' affirmative defenses, objected to the substitution of Elizabeth Campos as a trial witness, requested a subpoena for inmate Realious Cyprian, and requested copies of the civil jury instructions. Campos was removed from Defendants' updated

witness list, and Cyprian had not been identified as a witness in the final pretrial order or shown to satisfy its exception for previously undiscoverable witnesses.

PROCEDURAL HISTORY

Hernandez, a state prisoner proceeding pro se and in forma pauperis, brought an Eighth Amendment deliberate-indifference claim against Defendants Constable, Sharma, and Serwanga. The court previously denied Defendants' motion for summary judgment, and the case was set for jury trial. Before trial, Hernandez filed several motions and requests, which the court resolved in this order.

DISPOSITION

other

CASES CITED

- Shoraka v. Bank of Am., N.A., No. 23-cv-00309-DOC, 2024 WL 3468756, at *4 (C.D. Cal. Jan. 18, 2024)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 CESAR N. HERNANDEZ, No. 2:19-cv-02195-DC-SCR 12 Plaintiff, 13 v.
ORDER 14 A. CONSTABLE, et al., (Doc. Nos. 152, 155, 159, 161) 15 Defendants. 16 17 Plaintiff
Cesar N. Hernandez is a state prisoner appearing pro se and in forma pauperis in 18 this civil
rights action pursuant to 42 U.S.C. § 1983.

The matter will proceed to jury trial on 19 October 20, 2025, on Plaintiff’s claim against
Defendants A. Constable, S. Sharma, and J. 20 Serwanga for deliberate indifference to his serious
medical needs in violation of the Eighth 21 Amendment. 22 Plaintiff has filed several documents
(styled as objections, motions, and requests) 23 concerning the upcoming trial.

(Doc. Nos. 152, 155, 159, 161.) The court addresses Plaintiff’s 24 filings below. 25 A. Plaintiff’s
Objection and Motion (Doc. No. 152) 26 On August 18, 2025, Plaintiff filed an “objection and
motion” requesting the court permit 27 him to introduce as trial exhibits the court’s findings and
recommendations and order issued on 28 April 27, 2022, and August 5, 2022, respectively, in
which the court denied Defendants’ motion 1 for summary judgment.

(Doc. No. 152.) 2 A court may grant summary judgment on a claim if the moving party shows
“[t]here is no 3 genuine dispute as to any material fact and the movant is entitled to judgment as a
matter of law.” 4 Fed. R. Civ. P. 56(a).

The court, not jury, is tasked with ruling on a summary judgment motion. 5 Id. The standard the
court applies in deciding a motion for summary judgment is different from 6 the standard the jury
must apply in deciding the claim here. See Shoraka v. Bank of Am., N.A., 7 No. 23-cv-00309-

DOC, 2024 WL 3468756, at *4 (C.D. Cal. Jan. 18, 2024) (finding the inclusion of the court's prior orders on dispositive motions likely to confuse the jury and unduly prejudice the defendant).

Accordingly, the court will deny Plaintiff's request to introduce the court documents at issue on relevancy grounds. Fed. R. Evid. 401. Even if the evidence was relevant, the court documents would be excluded pursuant to Federal Rule of Evidence 403, as the probative value of those court documents is substantially outweighed by the potential for confusing the issues and misleading the jury.

B. Plaintiff's Objection and Pretrial Motion (Doc. No. 155) On September 2, 2025, Plaintiff filed an "objection and pretrial motion" requesting the court strike Defendants' affirmative defenses pursuant to Federal Rule of Civil Procedure 12(f). (Doc. No. 155.) Plaintiff also objects to Defendants' substitution of a witness on their witness list.

(Id.) Specifically, Plaintiff objects to the substitution of Elizabeth Campos as a trial witness because Ms. Campos was not listed as a witness in the court's final pretrial order. (Id. at 4–5.) Federal Rule of Civil Procedure 12(f) provides: "The court may strike from a pleading an insufficient defense or any redundant, immaterial, impertinent, or scandalous matter.

The court may act... on motion made by a party either before responding to the pleading or, if a response is not allowed, within 21 days after being served with the pleading." 24 Fed. R. Civ. P. 12(f)(2) (emphasis added).

Because a response to an answer is not allowed, a motion to strike affirmative defenses raised in an answer must be filed within 21 days after service of the answer. Here, Defendants properly raised their affirmative defenses in their answer, and Plaintiff did not timely file a motion to strike. (Doc. No. 29 at 4–6.)

Therefore, Plaintiff's motion to strike will be denied as untimely. As to the substitution of Ms. Campos on Defendants' witness list, Ms. Campos is no longer identified as a witness on Defendants' updated trial witness list, filed on October 10, 2025. 3 (Doc. No. 166.)

Accordingly, Plaintiff's objection to Defendants calling Ms. Campos as a witness will be denied as having been rendered moot by Defendants' updated witness list. C. Plaintiff's Request for Subpoena (Doc. No. 159) 6 On September 22, 2025, Plaintiff filed a request for the court to issue a subpoena for 7 inmate Realious Cyprian to appear as a trial witness.

(Doc. No. 159.) On September 26, 2025, 8 Defendants filed an opposition to Plaintiff's request. (Doc. No. 162.) In general, Defendants 9 assert Plaintiff failed to list Mr. Cyprian as a potential trial witness during discovery and in his 10 pretrial filings. (Id.) 11 In the final pretrial order, the court noted that other than the potential witnesses listed in 12 the order, no other witness will be

permitted to testify unless: (1) the witness could not reasonably 13 have been discovered prior to pretrial; (2) the court and the opposing party were promptly notified 14 upon discovery of the witnesses; (3) if time permitted, the party proffered the witness for 15 deposition; and (4) if time did not permit, a reasonably summary of the witnesses' testimony was 16 provided to the opposing party.

(Doc. No. 146 at 6.) Mr. Cyprian is not listed in the final pretrial 17 order, and Plaintiff has not made the necessary showing described in the final pretrial order to 18 permit him to testify. 19 Accordingly, Plaintiff's request for a subpoena is denied. 20 D. Plaintiff's Request for Jury Instructions (Doc. No. 161) 21 On September 22, 2025, Plaintiff filed a request for the court to send him jury instructions 22 for the trial.

(Doc. No. 161.) The court will grant Plaintiff's request as consistent with the court's 23 trial procedures. The court will provide all parties with a copy of the civil jury instructions during 24 the trial. 25 Accordingly, for the reasons explained above: 26 1. Plaintiff's objection and motion to permit him to introduce the court's orders as 27 evidence (Doc.

No. 152) is DENIED; 28 2. Plaintiff's motion to strike Defendants' affirmative defenses (Doc. No. 155) is 1 DENIED; 2 3. Plaintiff's objection to Elizabeth Campos being called by Defendants at trial (Doc. 3 No. 155) is DENIED as having been rendered moot; 4 4. Plaintiffs request for subpoena (Doc. No. 159) is DENIED; and 5 5. Plaintiffs request for jury instructions (Doc.

No. 161) is GRANTED. 6 7 IT IS SO ORDERED.: 9 | Dated: _ October 15, 2025 Cs Dena Coggins 10 United States District Judge 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28