

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)

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