

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA

Scott v. Nunez

No. 25-cv-03826-RS (PR) (N.D. Cal. Sept. 30, 2025) · No. 25-cv-03826-RS (PR) · Decided September 30, 2025

OPINION

Scott v. Nunez

PER CURIAM.

1 2 3 4 5 6

7 UNITED STATES DISTRICT COURT

8 NORTHERN DISTRICT OF CALIFORNIA

9

CHRISTOPHER D. SCOTT,

10 Case No. 25-cv-03826-RS (PR) Plaintiff, 11 AMENDED ORDER OF SERVICE; v.

12 ORDER DIRECTING DEFENDANT

A. NUNEZ, et al., TO FILE A DISPOSITIVE MOTION

13 OR A NOTICE REGARDING SUCH

Defendants. MOTION; 14

INSTRUCTIONS TO CLERK

15 16

INTRODUCTION

17 Plaintiff alleges that a deputy sheriff at the San Mateo County Jail interfered with 18 his right
to the free exercise of his religion by asking him to remove his Muslim head 19 covering. His 42
U.S.C. § 1983 complaint containing these allegations is now before the 20 Court for review
pursuant to 28 U.S.C. § 1915A(a). 21 Plaintiff has stated a free exercise of religion claim under
the First Amendment. All 22 other claims and defendants are DISMISSED. On or before February
2, 2026, defendant 23 Nunez shall file a dispositive motion or a notice regarding such motion
relative to the 24 cognizable claim raised in the complaint. Defendant also shall file an answer in
25 accordance with the Federal Rules of Civil Procedure. No hearing will be held on any 26
motion unless the Court specifically orders one. 27

1 DISCUSSION

2 A. Standard of Review 3 A federal court must conduct a preliminary screening in any case in
which a 4 prisoner seeks redress from a governmental entity or officer or employee of a 5
governmental entity. See 28 U.S.C. § 1915A(a). In its review, a court must identify any 6
cognizable claims and dismiss any claims that are frivolous, malicious, fail to state a claim 7 upon
which relief may be granted or seek monetary relief from a defendant who is immune 8 from such

relief. See *id.* § 1915A(b)(1), (2). Pro se pleadings must be liberally construed. 9 See *Balistreri v. Pacifica Police Dep’t*, 901 F.2d 696, 699 (9th Cir. 1988). 10 A “complaint must contain sufficient factual matter, accepted as true, to ‘state a 11 claim to relief that is plausible on its face.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) 12 (quoting *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). “A claim has facial 13 plausibility when the plaintiff pleads factual content that allows the court to draw the 14 reasonable inference that the defendant is liable for the misconduct alleged.” *Id.* (quoting 15 *Twombly*, 550 U.S. at 556). Furthermore, a court “is not required to accept legal 16 conclusions cast in the form of factual allegations if those conclusions cannot reasonably 17 be drawn from the facts alleged.” *Clegg v. Cult Awareness Network*, 18 F.3d 752, 754-55 18 (9th Cir. 1994). To state a claim under 42 U.S.C. § 1983, a plaintiff must allege two 19 essential elements: (1) that a right secured by the Constitution or laws of the United States 20 was violated, and (2) that the alleged violation was committed by a person acting under the 21 color of state law. See *West v. Atkins*, 487 U.S. 42, 48 (1988). 22 B. Legal Claims 23 Plaintiff alleges that on February 25, 2025, “the start of Ramadan,” San Mateo 24 County Sheriff’s Deputy A. Nunez told him to remove his kufi (Muslim head covering) 25 because it reminded Nunez of his time in the military. (Compl., Dkt. No. 1 at 3.) When 26 plaintiff tried to explain why he was wearing the kufi, he was handcuffed in a holding cell, 27 transferred out of the housing unit, and was “written up” for having an argument. (*Id.*) 1 When liberally construed, these allegations state a free exercise of religion claim under the 2 First Amendment. All other claims and defendants are DISMISSED.

3 CONCLUSION

4 For the foregoing reasons, the Court orders as follows: 5 1. The Clerk of the Court shall issue summons and the United States Marshal 6 shall serve, without prepayment of fees, a copy of the complaint in this matter (Dkt. No. 7 1), all attachments thereto, on defendant A. Nunez, a deputy sheriff at the San Mateo 8 County Sheriff’s Department. 9 2. Defendant shall file an answer in accordance with the Federal Rules of Civil 10 Procedure. 11 3. On or before February 2, 2026, defendant shall file a motion for summary 12 judgment or other dispositive motion with respect to the claim(s) in the operative 13 complaint found to be cognizable above. 14 a. If any defendant elects to file a motion to dismiss on the grounds 15 plaintiff failed to exhaust his available administrative remedies as required by 42 U.S.C. 16 § 1997e(a), defendant shall do so in a motion for summary judgment, as required by 17 *Albino v. Baca*, 747 F.3d 1162 (9th Cir. 2014). 18 b. Any motion for summary judgment shall be supported by adequate 19 factual documentation and shall conform in all respects to Rule 56 of the Federal Rules of 20 Civil Procedure. Defendant is advised that summary judgment cannot be granted, nor 21 qualified immunity found, if material facts are in dispute. If any defendant is of the 22 opinion that this case cannot be resolved by summary judgment, he shall so inform the 23 Court prior to the date the summary judgment motion is due. 24 4. Plaintiff’s opposition to the dispositive motion shall be filed with the Court 25 and served on defendant no later than forty-five (45) days from the date defendant’s 26 motion

is filed. 27 1 5. Defendant shall file a reply brief no later than fifteen (15) days after 2 plaintiff's opposition is filed. 3 6. The motion shall be deemed submitted as of the date the reply brief is due. 4 No hearing will be held on any motion unless the Court so orders at a later date. 5 7. All communications by the plaintiff with the Court must be served on 6 defendant, or defendant's counsel once counsel has been designated, by mailing a true 7 copy of the document to defendant or defendant's counsel. 8 8. Discovery may be taken in accordance with the Federal Rules of Civil 9 Procedure. No further court order under Federal Rule of Civil Procedure 30(a)(2) or Local 10 Rule 16-1 is required before the parties may conduct discovery.

11 Plaintiff is reminded that state prisoners may review all non-confidential material in 12 their medical and central files, pursuant to *In re Olson*, 37 Cal. App. 3d 783 (Cal. Ct. App. 13 1974); 15 California Code of Regulations § 3370; and the CDCR's Department Operations 14 Manual §§ 13030.4, 13030.16, 13030.16.1-13030.16.3, 13030.21, and 71010.11.1. 15 Requests to review these files or for copies of materials in them must be made directly to 16 prison officials, not to the court. 17 Plaintiff may also use any applicable jail procedures to request copies of (or the 18 opportunity to review) any reports, medical records, or other records maintained by jail 19 officials that are relevant to the claims found cognizable in this order. Such requests must 20 be made directly to jail officials, not to the court. 21 9. It is plaintiff's responsibility to prosecute this case. Plaintiff must keep the 22 Court informed of any change of address and must comply with the Court's orders in a 23 timely fashion. Failure to do so may result in the dismissal of this action for failure to 24 prosecute pursuant to Federal Rule of Civil Procedure 41(b). 25 10. Extensions of time must be filed no later than the deadline sought to be 26 extended and must be accompanied by a showing of good cause. 27 1 11. A decision from the Ninth Circuit requires that pro se prisoner-plaintiffs be 2 || given "notice of what is required of them in order to oppose" summary judgment motions 3 at the time of filing of the motions, rather than when the court orders service of process or 4 || otherwise before the motions are filed. *Woods v. Carey*, 684 F.3d 934, 939-41 (9th Cir. 5 || 2012). Defendant shall provide the following notice to plaintiff when he files and serves 6 || any motion for summary judgment: The defendants have made a motion for summary judgment by which they 8 seek to have your case dismissed. A motion for summary judgment under Rule 56 of the Federal Rules of Civil Procedure will, if granted, end your 9 case. 10 . Rule 56 tells you what you must do in order to oppose a motion for summary 11 judgment. Generally, summary judgment must be granted when there is no b genuine issue of material fact — that is, if there is no real dispute about any fact that would affect the result of your case, the party who asked for E 13 summary judgment is entitled to judgment as a matter of law, which will end your case. When a party you are suing makes a motion for summary 14 judgment that is properly supported by declarations (or other sworn testimony), you cannot simply rely on what your complaint says. Instead, = you must set out specific facts in declarations, depositions, answers to 16 interrogatories, or authenticated documents, as provided in Rule 56(e), that 7 contradict the facts shown in the defendants' declarations and documents and show that there is a genuine issue

of material fact for trial. If you do not 18 submit your own evidence in opposition, summary judgment, if appropriate, may be entered against you. If summary judgment is granted, your case will 19 be dismissed and there will be no trial. 20 || Rand v. Rowland, 154 F.3d 952, 962-963 (9th Cir. 1998). 21 12. The Clerk shall terminate all defendants with the exception of A. Nunez. 22 IT IS SO ORDERED. 23 || Dated: September 30_, 2025 Me / f v (a 24

RICHARD SEEBO

25 Chief United States District Judge 26 27

28 AMENDED ORDER OF SERVICE

CASE No. 25-cv-03826-RS