

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Roberto Johnson v. Kern County Jail, et al.

Johnson v. Kern County Jail · No. 1:22-cv-01046-KES-SKO (PC) · Decided June 30, 2025

SUMMARY

The United States District Court for the Eastern District of California issues a second informational order to pro se plaintiff Roberto Johnson regarding requirements for opposing Defendant Frye’s motion for summary judgment. The order provides notice under Rand, Woods, and Klingele, explains applicable Federal and Local Rules, and grants Plaintiff 21 days from service to file an opposition or statement of non-opposition.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Sheila K. Oberto
DECIDED	June 30, 2025
DOCKET	1:22-cv-01046-KES-SKO (PC)
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff, proceeding pro se and in forma pauperis under 42 U.S.C. § 1983, brought an Eighth Amendment failure-to-protect claim against Defendant Frye. After Defendant filed a motion for summary judgment, the court issued a second informational order and warning concerning the requirements for opposing that motion and extended Plaintiff's response deadline.
STANDARD OF REVIEW	The order explains the Federal Rule of Civil Procedure 56 standard: summary judgment is appropriate when there is no genuine dispute of material fact and the movant is entitled to judgment as a matter of law.
PRECEDENTIAL VALUE	unpublished district court order

TOPICS

- summary judgment
- prisoners rights
- section 1983
- civil rights
- civil procedure

PRACTICE AREAS

- civil procedure
- prisoner civil rights
- summary judgment

QUESTIONS PRESENTED

1. What notice and evidentiary requirements must a pro se prisoner follow in opposing Defendant's summary judgment motion?
2. Whether Plaintiff should receive an extension of the deadline to oppose Defendant's summary judgment motion because the separate Rand warning was not included with the filing.

HOLDINGS

1. A pro se prisoner opposing summary judgment must file an opposition or statement of non-opposition, comply with Federal Rule of Civil Procedure 56 and the applicable local rules, identify disputed facts, and support factual disputes with admissible or properly authenticated evidence.
2. Plaintiff was granted twenty-one days from service of the order to file an opposition or statement of non-opposition to Defendant's summary judgment motion.

KEY QUOTATIONS

“Generally, summary judgment must be granted when there is no 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 summary judgment is entitled to judgment as a matter of law, which will end your case.” (at 3)

“Within twenty-one (21) days from the date of service of this order, Plaintiff SHALL file an opposition to Defendant’s motion for summary judgment, in compliance with Federal Rule of Civil Procedure 56 and Local Rule 260.” (at 8)

FACTUAL BACKGROUND

Roberto Johnson is a former county jail inmate and current state prisoner proceeding pro se and in forma pauperis. He asserts an Eighth Amendment failure-to-protect claim against Defendant Frye under 42 U.S.C. § 1983. Frye moved for summary judgment on the merits after discovery closed, and the court determined that an additional warning was appropriate because the separate Rand notice referenced by Frye was not included with the motion.

PROCEDURAL HISTORY

Discovery closed on April 25, 2025. Defendant Frye timely filed a summary judgment motion on June 26, 2025, but the separate Rand warning referenced in the filing was not included. The court therefore issued this order to provide the required notice and granted Plaintiff twenty-one days from service of the order to file an opposition or statement of non-opposition.

DISPOSITION

other

CASES CITED

- Woods v. Carey, 684 F.3d 934 (9th Cir. 2012)

- Rand v. Rowland, 154 F.3d 952 (9th Cir. 1998)
- Klingele v. Eikenberry, 849 F.2d 409 (9th Cir. 1988)

OPINION

1 2 3 4 5 6 UNITED STATES DISTRICT COURT 7 EASTERN DISTRICT OF CALIFORNIA 8
9 ROBERTO JOHNSON, 1:22-cv-01046-KES-SKO (PC) 10 Plaintiff, SECOND
INFORMATIONAL ORDER— NOTICE AND WARNING OF 11 v. REQUIREMENTS FOR
OPPOSING DEFENDANT’S SUMMARY JUDGMENT 12 KERN COUNTY JAIL, et al.,
MOTION 13 Defendants. (Doc. 48) 14 TWENTY-ONE (21) DAY DEADLINE 15 Plaintiff
Roberto Johnson is a former county jail inmate and current state prisoner 16 proceeding pro se and
in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983.

17 This action proceeds on Plaintiff’s Eighth Amendment failure to protect claim against
Defendant 18 Frye. 19 I. INTRODUCTION 20 On June 26, 2025, Defendant Frye filed a
summary judgment motion addressing the 21 merits of Plaintiff’s claim. (Doc. 48.)¹ Although
Defendant’s motion indicates Defendant served a 22 separate Rand² warning on Plaintiff (see id.
at 9), the warning itself was not included with 23 Defendant’s filing.

Therefore, in an abundance of caution, the Court provides Plaintiff with the 24 following
information and briefly extends the deadline for any opposition to Defendant’s motion. 25 26 1
Discovery closed in this case on April 25, 2025. (See Doc. 45.)

The Court notes Defendant’s motion for 27 summary judgment is timely because it was filed on
June 26, 2025, the deadline for the filing of dispositive motions. (Id. at 3.) 1 II. NOTIFICATION
OF RIGHTS AND REQUIREMENTS 2 Pursuant to Woods v. Carey, 684 F.3d 934 (9th Cir.
2012), Rand v. Rowland, 154 F.3d 3 952 (9th Cir. 1998), and Klingele v. Eikenberry, 849 F.2d 409
(9th Cir.

1988), the Court hereby 4 notifies Plaintiff of the following rights and requirements for opposing
the motion: 5 1. Unless otherwise ordered, all motions for summary judgment are briefed pursuant
6 to Local Rule 230(l). 7 2. Plaintiff is required to file an opposition or a statement of non-
opposition to 8 Defendant’s motion for summary judgment. Local Rule 230(l).

If Plaintiff fails to file an 9 opposition or a statement of non-opposition to the motion, this action
may be dismissed, with 10 prejudice, for failure to prosecute. The opposition or statement of non-
opposition must be filed 11 not more than 21 days after the date of service of the motion. Id. 12 3.

The Rand decision includes this model notice provided in Appendix A: 13 The defendants have
made a motion for summary judgment by which they seek to have your case dismissed. A motion
for summary 14 judgment under Rule 56 of the Federal Rules of Civil Procedure will, if granted,
end your case. 15 Rule 56 tells you what you must do in order to oppose a motion for 16 summary
judgment.

Generally, summary judgment must be granted when there is no genuine issue of material fact—that is, if there is no 17 real dispute about any fact that would affect the result of your case, the party who asked for summary judgment is entitled to judgment 18 as a matter of law, which will end your case. When a party you are suing makes a motion for summary judgment that is properly 19 supported by declarations (or other sworn testimony), you cannot simply rely on what your complaint says.

Instead, you must set out 20 specific facts in declarations, depositions, answers to interrogatories, or authenticated documents, as provided in Rule 56(e), that 21 contradict the facts shown in the defendant's declarations and documents and show that there is a genuine issue of material fact for 22 trial. If you do not submit your own evidence in opposition, summary judgment, if appropriate, may be entered against you.

If summary 23 judgment is granted, your case will be dismissed and there will be no trial. 24 [Local Rule ____ of the District Court also requires, in addition, that 25 you include as a part of your opposition to a motion for summary judgment _____.] 26 27 Rand, 154 F.3d at 962-63. 1 4. A motion for summary judgment is a request for judgment on some or all of a 2 plaintiff's claims in favor of defendants without trial.

Fed. R. Civ. P. 56(a). Defendant's motion 3 sets forth the facts which he contends are not reasonably subject to dispute and that entitle him to 4 judgment as a matter of law. Fed. R. Civ. P. 56(c). This is called the Statement of Undisputed 5 Facts. Local Rule 260(a). 6 4. Plaintiff has the right to oppose a motion for summary judgment.

To oppose the 7 motion, Plaintiff must show proof of his claims. Plaintiff may agree with the facts set forth in 8 Defendant's motion but argue that Defendant is not entitled to judgment as a matter of law. 9 5. In the alternative, if Plaintiff does not agree with the facts set forth in Defendant's 10 motion, he may show that Defendant's facts are disputed in one or more of the following ways: 11 (1) Plaintiff may rely upon statements made under the penalty of perjury in the complaint or the 12 opposition if (a) the complaint or opposition shows that Plaintiff has personal knowledge of the 13 matters stated and (b) Plaintiff calls to the Court's attention those parts of the complaint or 14 opposition upon which Plaintiff relies; (2) Plaintiff may serve and file declarations setting forth 15 the facts which Plaintiff believes prove his claims; (3) Plaintiff may rely upon written records but 16 Plaintiff must prove that the records are what he claims they are; or (4) Plaintiff may rely upon all 17 or any part of the transcript of one or more depositions, answers to interrogatories, or admissions 18 obtained in this proceeding.

Should Plaintiff fail to contradict Defendant's motion with 19 declarations or other evidence, Defendant's evidence will be taken as truth, and final judgment 20 may be entered without a full trial. Fed. R. Civ. P. 56(e). 21 6.

In opposing Defendant's motion for summary judgment, Local Rule 260(b) 22 requires Plaintiff to reproduce Defendant's itemized facts in the Statement of Undisputed Facts 23 and admit those facts which are undisputed and deny those which are disputed. If Plaintiff 24 disputes (denies) a fact, Plaintiff must cite to the evidence used to support that denial (e.g., 25 pleading, declaration, deposition, interrogatory answer, admission, or other document).

Local 26 Rule 260(b). 27 7. Unsigned declarations will be stricken, and declarations not signed under penalty 1 9. The failure of to comply with this order, the Federal Rules of Civil Procedure, or 2 the Local Rules of the Eastern District of California may result in the imposition of sanctions 3 including but not limited to dismissal of the action or entry of default.

4 III. THE DEADLINE FOR FILING AN OPPOSITION WILL BE EXTENDED 5 Considering Plaintiff's pro se status and any uncertainty concerning the content of the 6 required Rand notice served by Defendant separately from the motion for summary judgment, the 7 Court will briefly extend the deadline for Plaintiff to file his opposition to Defendant's motion for 8 summary judgment.

9 IV. CONCLUSION AND ORDER 10 Based on the foregoing, the Court HEREBY ORDERS as follows: 11 1. Within twenty-one (21) days from the date of service of this order, Plaintiff 12 SHALL file an opposition to Defendant's motion for summary judgment, in compliance with 13 Federal Rule of Civil Procedure 56 and Local Rule 260.

In the alternative, Plaintiff may file a 14 statement of non-opposition to Defendant's motion within that same time; and 15 2. Any request for an extension of time of this deadline must be filed on or before it 16 expires and must be supported by good cause. 17 IT IS SO ORDERED. 18 19 Dated: June 30, 2025 /s/ Sheila K. Oberto. UNITED STATES MAGISTRATE JUDGE 20 21 22 23 24 25 26 27