

No. 25

In The Supreme Court of the United States

VIKRAM VALAME,

Petitioner,

v.

UNITED STATES OF AMERICA, et al.

Respondents.

Application of Vikram Valame to the Honorable Justice Kagan to Extend the Time to File a Petition for a Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit

VIKRAM VALAME
3700 O Street NW
Washington, D.C. 20057
vik.valame@gmail.com
408-712-4188

Applicant

January 15, 2026



To: Justice Elena Kagan, Circuit Justice for the Ninth Circuit

Pursuant to 28 U.S.C. § 2101(c) and Rules 13.5, 30.2, and 30.3 of the Rules of this Court, Applicant Vikram Valame respectfully requests a 35-day extension of time, up to and including Monday, March 9, 2026, to file his petition for a writ of certiorari to review the judgment of the United States Court of Appeals for the Ninth Circuit in this case. The opinion of the court of appeals (App., infra, 1A-5A) is reported at 157 F.4th 1172. An order of the district court (App., infra, 6A-11A) is unreported but available at 2024 WL 251415.

1. The court of appeals entered its judgment on July 17, 2025. A petition for panel rehearing was denied on November 4, 2025, at which time the Court of Appeals issued an amended opinion. Unless extended, the time within which to file a petition for a writ of certiorari would expire on February 2, 2026. The jurisdiction of this Court would be invoked under 28 U.S.C. § 1254(1).

2. In 2023, Applicant Vikram Valame successfully applied for a paid internship at the Nuclear Regulatory Commission. The Nuclear Regulatory Commission revoked his offer upon learning that he was a

man who had failed to register for the Selective Service. The operative complaint in this case alleges that the NRC's action was unlawful for two reasons. First, the male-only draft violates the Fifth Amendment because the integration of the armed forces has undermined the justifications that supported the draft in *Rostker v. Goldberg*, 453 U.S. 57 (1981). Second, the 2020 ratification of the Equal Rights Amendment—which guarantees equality of rights between men and women—invalidated the draft upon taking effect in 2022. See U.S. CONST. Amend. XXVIII §§1, 3.

3. The Ninth Circuit erroneously upheld the dismissal of Valame's claims. The court found that it was bound by *Rostker* even though the integration of women into combat positions has eviscerated its rationale. While vertical *stare decisis* may have justified that decision, the lack of substantive defense of *Rostker* only underscores the need for this Court's review. The Ninth Circuit also found the Equal Rights Amendment invalid due to a purported ratification deadline imposed by Congress. However, the Constitution gives Congress only the power to propose amendments and decide whether state conventions or state legislatures will ratify them. The Ninth Circuit's recognition of an

implicit deadline-setting power directly contradicts the text of Article V and undermines an essential check on government power.

4. Vikram Valame intends to seek this Court's review on both the Fifth and Twenty-Eighth Amendment questions. Three Justices of this Court have already recognized the tension between *Rostker* and modern military practice. *Nat'l Coal. for Men v. Selective Serv. Sys.*, 141 S. Ct. 1815, 210 L. Ed. 2d 897 (2021) (statement of Justice Sotomayor, joined by Justice Breyer and Justice Kavanaugh). Additionally, the Ninth Circuit's decision to recognize the ERA deadline as expiring on June 30th, 1982, directly contradicts *State of Idaho v. Freeman*, 529 F. Supp. 1107 (D. Idaho 1981), which itself warranted certiorari. *Nat'l Org. for Women, Inc. v. Idaho*, 455 U.S. 918, 102 S. Ct. 1272, 71 L. Ed. 2d 458 (1982).

5. Good cause exists for an extension to prepare a petition for a writ of certiorari in this case. Undersigned applicant is a full-time student at Georgetown University and faced a significant workload due to final exams in the month of December. Due to the complex issues presented by this case, including (i) Department of Defense's policy surrounding armed forces integration, (ii) the Ninth Circuit's decision to recognize the Congressional deadline extension, and (iii) this Court's

printing requirements for paid petitions, an extension of time is necessary.

6. The Applicant has not previously requested an extension. Applicant respectfully requests that the time to file a petition for writ of certiorari be extended 35 days, up to and including March 9th, 2026.

January 15, 2026

Respectfully Submitted,

/s/ Vikram Valame
VIKRAM VALAME
Applicant
3700 O Street NW
Washington, D.C. 20057
408-712-4188
vik.valame@gmail.com



APPENDIX

Order of the United States Court of Appeals for the Ninth Circuit Denying Petition for Panel Rehearing, Granting Publication, and Substituting an Amended Opinion.....	1A
Memorandum Opinion of the District Court Granting Defendants' Motion to Dismiss.....	6A

FOR PUBLICATION

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

VIKRAM VALAME,

Plaintiff - Appellant,

v.

DONALD J. TRUMP; CRAIG T.
BROWN; JOEL C.
SPANGENBERG; STEVEN L.
KETT; UNITED STATES OF
AMERICA, Selective Service
System; ISMAIL RAMSEY,

Defendants - Appellees.

No. 24-369

D.C. No. 5:23-cv-
03018-NC

**ORDER AND
OPINION**

Appeal from the United States District Court
for the Northern District of California
Nathanael M. Cousins, Magistrate Judge, Presiding*

Submitted July 15, 2025**

Filed November 4, 2025

* The parties consented to proceed before a magistrate judge. *See* 28 U.S.C. § 636(c).

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Before: Barry G. Silverman, Richard C. Tallman, and
Patrick J. Bumatay, Circuit Judges.

Order;
Per Curiam Opinion

SUMMARY***

Military Selective Service Act

The panel affirmed the district court's judgment dismissing for failure to state a claim an action brought by Vikram Valame challenging the constitutionality of the Military Selective Service Act ("MSSA").

The panel rejected Valame's allegation that the MSSA's requirement that men, but not women, register with the Selective Service System violates his rights under the Equal Rights Amendment ("ERA"), which Valame contends was ratified as the Twenty-Eighth Amendment to the Constitution. The panel noted that the ERA was not ratified by three-fourths of the States prior to the deadline set by Congress and the Archivist of the United States did not publish or certify the ERA. Therefore, the district court properly dismissed Valame's claims under the ERA for failure to state a plausible claim.

The panel held that the district court also properly dismissed, as foreclosed by binding Supreme Court

*** This summary constitutes no part of the opinion of the court. It has been prepared by court staff for the convenience of the reader.

precedent, Valame's Fifth Amendment claims challenging the MSSA's male-only registration requirement.

COUNSEL

Vikram Valame, Pro Se, Palo Alto, California, for Plaintiff-Appellant.

Michael S. Raab, Thomas G. Pulham, and Simon C. Brewer, Attorneys, Appellate Staff; Michael J. Gerardi, Senior Trial Counsel, Federal Programs Branch; Ismail J. Ramsey, United States Attorney, Civil Division; Brian M. Boynton, Principal Deputy Assistant Attorney General; United States Department of Justice, Washington, D.C.; for Defendants-Appellees.

ORDER

The petition (Docket Entry No. 46) for panel rehearing is denied.

The request (Docket Entry No. 47) for publication is granted.

The memorandum disposition filed on July 17, 2025, is withdrawn. A replacement opinion will be filed concurrently with this order.

No further petitions for rehearing will be entertained in this closed case.

OPINION

PER CURIAM:

Vikram Valame appeals pro se from the district court’s judgment dismissing his action challenging the constitutionality of the Military Selective Service Act (“MSSA”). We have jurisdiction under 28 U.S.C. § 1291. We review de novo a dismissal under Fed. R. Civ. P. 12(b)(6). *Wilson v. Lynch*, 835 F.3d 1083, 1090 (9th Cir. 2016). We affirm.

Valame alleges that the MSSA’s requirement that men, but not women, register with the Selective Service System violates his rights under the Equal Rights Amendment (“ERA”), which Valame contends was ratified as the Twenty-Eighth Amendment to the Constitution. However, the ERA was not ratified by three-fourths of the States prior to the deadline set by Congress, June 30, 1982, and the Archivist of the United States did not publish or certify the ERA. *See Illinois v. Ferriero*, 60 F.4th 704, 710-13 (D.C. Cir. 2023). Therefore, the district court properly dismissed Valame’s claims under the ERA for failure to state a plausible claim. *See Somers v. Apple, Inc.*, 729 F.3d 953, 959 (9th Cir. 2013) (explaining that dismissal “under Rule 12(b)(6) is proper when the complaint either (1) lacks a cognizable legal theory or (2) fails to allege sufficient facts to support a cognizable legal theory”).

The district court also properly dismissed as foreclosed by binding Supreme Court precedent Valame’s Fifth Amendment claims challenging the MSSA’s male-only registration requirement. *See Rostker v. Goldberg*, 453 U.S. 57, 83 (1981) (upholding the MSSA’s gender-based registration requirement against a Fifth Amendment

challenge); *Newman v. Wengler*, 790 F.3d 876, 880 (9th Cir. 2015) (explaining that “we do not engage in anticipatory overruling of Supreme Court precedent”).

All pending motions and requests are denied.

AFFIRMED.

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

10 VIKRAM VALAME,
11 Plaintiff,

12 v.

13 JOSEPH ROBINETTE BIDEN, et al.,
14 Defendants.

Case No. 23-cv-03018-NC

**ORDER GRANTING
DEFENDANTS' MOTION TO
DISMISS; DENYING PLAINTIFF'S
MOTION FOR TEMPORARY
RESTRANDING ORDER**

Re: ECF 30, 38, 39, 57

16 Plaintiff Vikram Valame alleges the government's military draft registration
17 requirements discriminate against him on the basis of sex. At the core of his argument,
18 Valame contends the States ratified the Equal Rights Amendment ("ERA") as the 28th
19 Amendment to the Constitution. Defendants counter there is no 28th Amendment and
20 Valame cannot state a claim for relief. Finding no 28th Amendment at the end of the
21 Constitution, this Court agrees with Defendants. Accordingly, this Court finds Valame
22 cannot state a claim for relief and DISMISSES his claims with prejudice. This Court
23 DENIES Valame's motion for a temporary restraining order on the same grounds.

24 **I. BACKGROUND**

25 **A. Military Selective Service Act**

26 Valame challenges the registration provisions of the Military Selective Service Act,
27 50 U.S.C. §§ 3801–3820 ("MSSA"). Generally, the MSSA requires male citizens and residents of
28 the United States between the ages of 18 and 26 to register with the Selective Service System

1 (“SSS”). 50 U.S.C. §§ 3802(a), 3809. Those who fail to register may face penalties or denial of
2 federal benefits. *See* §§ 3811(a), 3811(f). Women are not required to register. *See* 50 U.S.C. §
3 3802(a). Registrants must keep SSS informed of their current address. *See* 32 C.F.R. § 1621.1(a).

4 **B. Factual History**

5 Valame is an 18-year-old male. ECF 51 (“FAC”) ¶ 1. He is a US citizen residing
6 within this District. *Id.* Under the MSSA, Valame is required to register with the SSS.
7 *See id.*; 50 U.S.C. §§ 3802(a), 3809. Valame “has knowingly and willfully refused to
8 register for the draft, despite his obligation to do so.” FAC. ¶ 23.

9 Generally, Valame “does not wish to spend time, postage money, cellular data, or
10 other limited resources registering for the military draft.” *Id.* ¶ 20. Nor will Valame “obey
11 the [change in address] notification requirement.” *Id.* ¶ 25. According to Valame, this
12 notification requirement harms him because it “requires the expenditure of time and money
13 to pay for communications to the SSS.” *Id.* ¶ 25.

14 Valame also states he “suffers serious stigmatic injury from the implicit view that
15 he is expendable and required to defend his country on an unequal basis with his fellow
16 citizens.” *Id.* ¶ 39. Overall, Valame claims the MSSA requirements cause him to “suffer[]
17 frustration and significant anxiety about his role in society.” *Id.* ¶ 25.

18 Valame claims to experience further harm “because these provisions deny him job
19 opportunities provided by the federal government.” *Id.* ¶ 40 (cleaned up). These harms
20 form the basis of his motion for a temporary restraining order. *See* ECF 75 (“TRO”).
21 Valame states he applied for a summer internship with the Nuclear Regulatory
22 Commission. TRO at 2. According to Valame, the NRC tentatively selected him for an
23 internship, before informing him it would revoke his offer if he did not register with the
24 SSS. TRO at 2. Valame asks this Court to restrain Defendants from “taking adverse
25 employment action against” him. TRO at 8.

26 **C. Procedural History**

27 Valame filed his complaint *pro se* on June 20, 2023. ECF 1. He followed with a
28 motion for summary judgment on September 15, 2023. ECF 30. Defendants countered on

1 September 29, 2023, with an opposition to Valame's motion and cross motion to dismiss.
2 ECF 38. Valame filed his own opposition on October 13, 2023. ECF 39.

3 After a hearing on the parties' cross motions, Valame filed an amended complaint
4 on December 19, 2023. *See* FAC. Valame brings five claims against Defendants: three for
5 declaratory relief under the Administrative Procedures Act; a *Bivens* claim; and a
6 California Bane Act claim. *See id.* at ¶¶ 52–81. Each claim relies on Valame's
7 "constitutional rights under the 28th Amendment." *See id.* at ¶¶ 54, 58, 66, 75, 80.
8 Valame realleges these same claims with reference to the 5th Amendment, though he
9 concedes those "claims are foreclosed by binding precedent."¹ *Id.* ¶ 82–83.

10 Per this Court's request, the parties also filed supplemental briefing on the issue of
11 standing.² ECF 52, 54. Defendants "incorporate[d] all of the arguments for dismissal
12 contained in their motion to dismiss" into their supplemental brief. *See* ECF 54 at 1 n.1.
13 This Court finds Defendants' incorporated arguments sufficiently address Valame's FAC
14 without need for further briefing.

15 Before this Court issued a ruling, Valame moved for a temporary restraining order.
16 *See* TRO.

17 Both parties have consented to magistrate judge jurisdiction. ECF 3, 25.

18 **II. LEGAL STANDARD**

19 A motion to dismiss for failure to state a claim under Rule 12(b)(6) tests the legal
20 sufficiency of a complaint. *Navarro v. Block*, 250 F.3d 729, 732 (9th Cir. 2001). "To
21 survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as
22 true, to 'state a claim to relief that is plausible on its face.'" *Ashcroft v. Iqbal*, 556 U.S.
23 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). When
24 reviewing a 12(b)(6) motion, a court "must accept as true all factual allegations in the
25 complaint and draw all reasonable inferences in favor of the non-moving party." *Retail*

26 _____
27 ¹ This Court agrees and DISMISSES with prejudice Valame's claims referencing the 5th
28 Amendment.

² Though this Court thanks the parties for their thoughtful briefing on the issue of standing,
it decides this matter on other grounds and does not reach that issue.

1 *Prop. Trust v. United Bd. of Carpenters & Joiners of Am.*, 768 F.3d 938, 945 (9th Cir.
2 2014). A court, however, need not accept as true “allegations that are merely conclusory,
3 unwarranted deductions of fact, or unreasonable inferences.” *In re Gilead Scis. Secs.*
4 *Litig.*, 536 F.3d 1049, 1055 (9th Cir. 2008). A facially plausible claim “allows the court to
5 draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Id.*

6 If a court grants a motion to dismiss, leave to amend should be granted unless the
7 pleading could not possibly be cured by the allegation of other facts. *Lopez v. Smith*, 203
8 F.3d 1122, 1127 (9th Cir. 2000).

9 **III. DISCUSSION**

10 Valame’s claims depend on the existence of a 28th Amendment. This Court finds
11 no such amendment in the Constitution. Defendants convincingly cite to persuasive
12 authority supporting this finding. On the other hand, Valame has not provided any court
13 authority indicating otherwise. Accordingly, this Court DISMISSES Valame’s claims.
14 Because it relies on the same failed legal theory, this Court also DENIES his TRO.

15 **A. History of the ERA**

16 Though not necessary to our analysis, this Court quotes a brief history of the ERA:

17 The Equal Rights Amendment [] was introduced in Congress [in
18 1923]. . . . [B]ut it took until 1970 for the proposal to make it to
the House Floor. By a vote of 352 to 15, the body proposed its
19 ratification as the [then] Twenty-seventh Amendment to the
United States Constitution. *Illinois v. Ferriero*, 60 F.4th 704,
20 711–12 (D.C. Cir. 2023). The Senate, however, did not take it
up and it lapsed. Two years later, both chambers passed the
21 resolution proposing the Amendment for ratification and
submitted it to the 50 states. Contained within the resolution,
22 although not the text of the ERA, was a seven-year deadline
within which three-quarters of the states, 38 of them, were
23 required to vote affirmatively for the Amendment to be ratified.
Id. at 712.

24 As of 1982 only 35 states had voted to ratify, even though
the deadline had been extended by three years. For the next 30
25 years, the ERA was presumably considered dead, but in 2018,
Nevada ratified it, followed quickly by Illinois and Virginia. *Id.*
26 at 713. Since then, a battle to accord vitality and validity to the
ERA has been fought

27 *Elizabeth Cady Stanton Tr. v. Neronha*, No. 22-cv-00245-MSM, 2023 WL 6387874, at *1
28 (D.R.I. Sept. 8, 2023) (footnotes omitted).

B. Valame Cannot State a Claim Under a Non-Existent Amendment.

Valame argues a 28th Amendment protects him against discrimination on the basis of sex. *See* FAC ¶ 12. The Constitution does not agree. Nor does persuasive authority. *See, e.g., Ferriero*, 60 F.4th at 719.

1. The Constitution Does Not Include a 28th Amendment.

As an initial matter, no 28th Amendment appears in the Constitution. *See generally* Constitution. Valame does not cite to any court authority finding otherwise. *See generally* ECF 30, 39. “The United States Constitution provides a pathway for adding new Amendments, and Congress has determined that the last step on that path is certification and publication by the National Archivist.” *Elizabeth Cady Stanton Tr.*, 2023 WL 6387874, at *7. The Archivist has not taken those necessary steps. *See Ferriero*, 60 F.4th at 713 (recounting how “the Archivist refused to certify and publish the amendment”). This Court finds the 28th Amendment’s lack of publication convincing evidence it does not now exist. *See id.*; *see also* Constitution (concluding at 27th Amendment).

Beyond the 28 Amendment's current state of nonbeing, the *Ferriero* court took up the question of whether the Archivist owed a duty to bring it to life. *Ferriero*, 60 F.4th 704. The court walked through the ERA's storied history, *id.* at 711–13, and the certification requirements imposed on the Archivist, *id.* at 713–19. At bottom, the court concluded the Archivist did not have a duty to certify and publish the ERA. *Id.* at 719. This Court finds *Ferriero* persuasive. Thus, not only does the Amendment granting Valame his purported rights not exist, but the Government is also under no duty at this time to bring it into existence. *See id.*

Ultimately, either the 28th Amendment simply does not exist. *See Taylor v. El Centro Coll.*, No. 3:21-CV-0999-D, 2022 WL 102611, at *8 (N.D. Tex. Jan. 10, 2022) (“Taylor’s claim under the Equal Rights Amendment fails because there is no such amendment to the United States Constitution.”); *Ferguson v. Idaho Dep’t of Correction*, No. 4:20-CV-00003-DCN, 2020 WL 1016447, at *1 n.1 (D. Idaho Mar. 2, 2020) (“The Equal Rights Amendment was not ratified and is not part of the United States

1 Constitution.”). Or the Archivist does not owe a duty to certify and publish the ERA, thus
2 precluding its creation. *See Ferriero*, 60 F.4th at 719. For our purposes, the result is the
3 same: there is now no 28th Amendment and Valame cannot state a claim for relief under a
4 constitutional amendment that does not exist.

5 Therefore, this Court DISMISSES Valame’s claims. Because no new allegations
6 would save his claims, this Court finds leave to amend futile. *See Lopez*, 203 F.3d at 1127.

7 **C. Valame TRO Motion is Denied.**

8 Valame’s TRO also hinges on his purported rights under the 28th Amendment.
9 Finding he does not possess those rights, this Court DENIES his application for a TRO.

10 **IV. CONCLUSION**

11 This Court DISMISSES Valame’s claims with prejudice. As his TRO relies on the
12 same legal theory, this Court also DENIES his motion for a TRO.

13 **IT IS SO ORDERED.**

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15 Dated: January 20, 2024


16 NATHANAEL M. COUSINS
United States Magistrate Judge

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United States District Court
Northern District of California

In The Supreme Court of the United States

VIKRAM VALAME,

Petitioner,

v.

UNITED STATES OF AMERICA, et al.

Respondents.

Certificate of Service

I, Vikram Valame, the pro se Petitioner in this case, certify that, on January 15th, 2026, one copy of the Application for an Extension of Time Within Which to File a Petition for a Writ of Certiorari in the above-captioned case was sent by first-class mail to the following counsel:

Solicitor General of the United States
Department of Justice
950 Pennsylvania Ave., N.W.
Room 5616
Washington, DC 20530-0001

I further certify that all parties required to be served have been served.

Pursuant to 28 U.S.C. § 1746 I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on January 15, 2026.

/s/ Vikram Valame
VIKRAM VALAME



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