**NOT FOR PUBLICATION**

FILED

MAY 7 2026

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

BRUCE KOKLICH, individually and as Class Representatives,

Plaintiff - Appellant,

and

HAROLD W. TAYLOR, DAVID M. ZIEMKE, JON GARY SCHNABEL, RONALD E. AUSTIN, CHRISTOPHER CAMP, GEORGE JACKSON,

Plaintiffs,

v.

DEAN BORDERS, Warden and Senior Administrative and Policy making Officer, individual and official capacity; CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION, a California Public Entity,

Defendants - Appellees.

No. 24-3505

D.C. No. 5:18-cv-02488-TJH-AGR

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Terry J. Hatter, Jr., District Judge, Presiding

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

Submitted April 22, 2026**

Before: LEE, DESAI, and JOHNSTONE, Circuit Judges.

California state prisoner Bruce Koklich appeals pro se from the district court's summary judgment in his action alleging a violation of the Americans with Disabilities Act ("ADA") in connection with water quality at the California Institution for Men. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Desire, LLC v. Manna Textiles, Inc.*, 986 F.3d 1253, 1259 (9th Cir. 2021). We affirm.

The district court properly granted summary judgment on Koklich's ADA claim because Koklich failed to raise a genuine dispute of material fact as to whether he was discriminated against by reason of his disability. *See McGary v. City of Portland*, 386 F.3d 1259, 1265 (9th Cir. 2004) (discussing elements of an ADA Title II claim).

The district court did not abuse its discretion in denying plaintiffs' counsel's motions to withdraw because counsel did not comply with local rules regarding notice to clients and plaintiffs could not represent the putative class pro se. *See* C.D. Cal. R. 83-2.3.1 ("A motion for leave to withdraw must be made upon written

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

notice given reasonably in advance to the client and to all other parties who have appeared in the action."); *United States v. Carter*, 560 F.3d 1107, 1113 (9th Cir. 2009) (setting forth standard of review and factors to consider in reviewing denial of motion to withdraw as counsel); *Simon v. Hartford Life, Inc.*, 546 F.3d 661, 664 (9th Cir. 2008) (explaining that the privilege to represent oneself *pro se* "is personal to the litigant and does not extend to other parties or entities"); *Bias v. Moynihan*, 508 F.3d 1212, 1223 (9th Cir. 2007) (explaining that the district court has broad discretion in interpreting and applying local rules).

The district court did not abuse its discretion in rejecting or striking Koklich's pro se communications and filings because Koklich was represented by counsel. *See Atchison, Topeka & Santa Fe Ry Co. v. Hercules, Inc.*, 146 F.3d 1071, 1074 (9th Cir. 1998) (explaining that district courts have the inherent power to control their dockets); *see also* C.D. Cal. R. 83-2.3.1 ("Whenever a party has appeared by an attorney, the party may not thereafter appear or act pro se, except upon order made by the Court after notice to such attorney and to any other parties who have appeared in the action.").

Contrary to Koklich's contentions, he is responsible for the consequences of any alleged errors by his attorneys. *See Link v. Wabash R. Co.*, 370 U.S. 626, 633-34 (1962) ("Petitioner voluntarily chose this attorney as his representative in the action, and he cannot now avoid the consequences of the acts or omissions of this

freely selected agent.").

We reject as unsupported by the record Koklich's contention that defendants' counsel engaged in fraud on the court.

We do not consider matters not specifically and distinctly raised and argued in the opening brief, or arguments and allegations raised for the first time on appeal. *See Padgett v. Wright*, 587 F.3d 983, 985 n.2 (9th Cir. 2009).

**AFFIRMED.**

## APPENDIX LIST


| APPENDIX NUMBER | | No. of pages |
|---|---|---|
| # 1. | August 12, 2026 Order denying the Petition for Rehearing and Rehearing in Banc from the Ninth Circuit. | 2 |
| # 2. | July 15, 2025 Declaration of Brian Thomas Boyd confirming criminal fraud of the drinking water lab samples. Please know that Mr. Boyd is a career navel pilot trained at Top Gun in San Diego. His criminal case is felon in possession of a firearm. He has excellent credibility and can pass a polygraph test. | 4 |

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DEAN BORDERS, Warden and Senior Administrative and Policy making Officer, individual and official capacity and CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION, a California Public Entity,

Defendants - Appellees.

No. 24-3505

D.C. No. 5:18-cv-02488-TJH-AGR
Central District of California,
Riverside

ORDER

Before: LEE, DESAI, and JOHNSTONE, Circuit Judges.

The panel has voted to deny the petition for panel rehearing.

The full court has been advised of the petition for rehearing en banc and no judge has requested a vote on whether to rehear the matter en banc. *See* Fed. R. App. P. 40.

The petition for panel rehearing and petition for rehearing en banc (Docket

Entry No. 37) are denied.

This court will not entertain further filings in this closed case.

APPENDIX-2

BRIAN THOMAS BOYD
CIM-A2 LH-153 L
P.O. Box 3100
Chino, CA. 91708

Plaintiff in Pro Se'

UNITED STATES COURT OF APPEAL

FOR THE NINTH CIRCUIT

BRIAN THOMAS BOYD,
Putative Class Representative

Plaintiff

and

HAROLD TAYLOR & BRUCE KOKLICH
Putative Class Representatives

Plaintiffs

-vs-

DEAN BORDERS, Warden and Senior Administrative and policy making officer, individual and official capacities & CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION, A California Public Entity

Defendants

Case No. 24-3505

DECLARATION OF BRIAN THOMAS BOYD IN SUPPORT OF COURT REMAND BASED ON NEWLY DISCOVERED EVIDENCE

[28 U.S.C.S. § 1746]

DECLARATION OF BRIAN THOMAS BOYD

1. BRIAN THOMAS BOYD (hereinafter BTB) is currently housed at the California Institution for Men (CIM) in Chino California (San Bernardino County). I have been diagnosed as a High Risk Medical (HRM) patient back in March 19, 2019 and currently still hold the HRM medical diagnosis. My housing designation at CIM is A-Facility Laguna Hall, LH-153 U. At all times described herein BTB has been incarcerated with the California Department of Corrections and Rehabilitation (CDCR) and is over the age of 18 years and submits the below facts to document fabricated and false

drinking water testing and substandard maintenance misconduct that I personally observed on a frequent basis and was forced by CDCR staff to take part in during the time when I was first employed at the CIM D-Facility (the location of the Water Treatment Plant (WTP).)

2. On March 19, 2019 on CIM B-Facility and on May 2019 on CIM D-Facility and up to August 25, 2020 I experienced multiple negative health effects to my physical fitness due to toxic and excessively contaminated drinking water. I also observed a layer of scum in cups of water including oil that floats to the top. I personally experienced multiple instances of kidney pain, liver pain, upset stomach due to this ongoing exposure to excessive and ongoing contamination. As a Licenced maintenance contractor I personally experienced and noticed a highly corrosive maintenance environment with sinks, shower valves and toilets frequently failing prematurely based on gaskets, grommets and rubber seals prematurely failing. In my professional opinion these serious problems including premature water valve failures present an ongoing maintenance challenge directly caused by the substandard drinking water.

3. On or about May 26, 2019, and continuing until August 29, 2019 I was employed at CIM as a Plant Operations Carpenter and Maintenance inmate worker. I stepped down at the end of August 2019 due to continuous and countless misconduct I observed in Plant Operations, which as a Licenced contractor I knew was a violation of law.

4. On or about May of 2019 and continuing on every third Tuesday of each month thereafter Plant Operations manager Robert Stockwell would arrive at the CIM D-Facility maintance yard/building driving a Brown Crown Victora 4 door sadan. At this time I was new to CIM Plant Operations and was just learning procedure so I followed orders and was instructed to remove five 5-gallon plastic jugs which were located in the trunk of the

Brown Crown Victoria when it arrived at the Plant Operations management office. After I removed the water jugs I was then instructed to fill approximately two dozen drinking water sampling cups (each of which was labeled as received from specific well head source locations) then after the cups were filled from the 5 gallon jugs those sampling cups were placed back in the trunk of the Brown Crown Vic. and then delivered to the testing laboratory.

5. On or about June 2019 as part of my maintenance duties at CIM D-Facility, I was able to observe the patient case load at CIM's D-Facility Outpatient Hospital Unit (OHU). Specifically stations 4 and 5 (aka Wings 4 and 5). I was shocked to learn and see with my own eyes the high volume of kidney and liver patients that were housed in Wing 4, which is designated as the terminal wing.

6. On or about July 2, 2019 I specifically questioned Plant Operations staff technician Mike Marcy (head of the Carpentry Shop and supervisor of Plant Operations) Mike stated to me that he had direct knowledge of the many years of contaminated Drinking Water and he was aware of the fabricated and false water sampling misconduct that continues to occur frequently. He confirmed that he did not report the misconduct due to his fear of job loss and retaliation. Mike also confirmed that CIM had it's lab testing vendors trained so that if their was a bad test result then the lab was to call for a replacement sample, and extra prebottled samples were then promptly provided. This occured frequently so that the excessive contaminate tests would not shut down the CIM WTP and the prison itself including the OHU. Mike, like all staff members, did not drink the water and brought in their own bottled water as all staff, including senior medical staff know of the toxic levels of

contaminates in the CIM drinking water. Mike, myself and numerous other officers and staff were all aware of the substandard and excessively contaminated drinking water and the staff did nothing.

7. Based on Information and belief Chief Medical Officer M.Farooq and Chief Medical Executive L.Escobell both should be added as Defendants to Appellants Fourth amended complaint as they both have personal knowledge that CIM's drinking water is excessively contaminated and cannot be legally provided to High Risk Medical (HRM) patients at CIM. Myself, Mike and many other staff and inmates are aware that the California Institution for Women (CIW) receives its drinking water from CIM's same faulty and poisoning WTP. The foreknowledge and notice of their misconduct is documented by the fact that all CIW female inmates are provided bottled water by the state but not the men at CIM.

VERIFICATION OF DECLARATION - 28 U.S.C. § 1746

I, the undersigned have read the foregoing: DECLARATION OF BRIAN THOMAS BOYD IN SUPPORT OF COURT REMAND BASED ON NEWLY DISCOVERED EVIDENCE

The matters stated herein are true of my own knowledge, except as to matters that are stated on information and belief, as to those matters I believe them to be true.

I declare under penalty of perjury under the laws of the State of California and the Laws of the United States of America, that the foregoing is true and correct.

EXECUTED ON July (Month) 15 (Day, 2025.

Respectfully Submitted

BRIAN THOMAS BOYD
Declarent In Pro Se'