

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUL 17 2025

FOR THE NINTH CIRCUIT

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

DUSTIN THOMAS HOUSE DARDEN,

Plaintiff - Appellant,

v.

CROWD MANAGEMENT SERVICE,

Defendant - Appellee.

No. 24-325

D.C. No.

3:23-cv-00153-SLG

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Alaska  
Sharon L. Gleason, Chief District Judge, Presiding

Submitted July 14, 2025\*\*

Before: HAWKINS, S.R. THOMAS, and McKEOWN, Circuit Judges.

Dustin Darden appeals pro se from the district court's judgment dismissing his action under 42 U.S.C. § 1983. We have jurisdiction under 28 U.S.C. § 1291.

We review de novo a dismissal for failure to state a claim under 12(b)(6).

*McKesson HBOC, Inc. v. New York State Common Ret. Fund, Inc.*, 339 F.3d 1087,

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

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

1090 (9th Cir. 2003). We review for abuse of discretion a denial of a request for oral argument. *Spradlin v. Lear Siegler Mgmt. Servs. Co.*, 926 F.2d 865, 867 (9th Cir. 1991). We affirm.

In 2021, Darden was standing outside a COVID-19 vaccination site at the Alaska State Fair, warning people of the dangers of the vaccine and filming passersby. As alleged, employees of Crowd Management Services (CMS), a private security contractor, approached Darden, threw him to the ground, choked him, and took his property. Anchorage police officers subsequently arrived and told the CMS employees to get off Darden. The officers then handcuffed Darden.

Darden fails to adequately allege that CMS's conduct constituted state action. At the relevant time, CMS was a contractor with the Alaska State Fair—a nonprofit, not a state entity. State licensing alone is not sufficient to show that the powers exercised here were endowed by the state; therefore, CMS's conduct does not constitute a public function. *Cf. Wright v. SEIU Local 503*, 48 F.4th 1112, 1124 (9th Cir. 2022). The police opposed CMS's treatment of Darden as soon as practicable, undermining Darden's allegation of joint action. *Cf. Tsao v. Desert Palace, Inc.*, 698 F.3d 1128, 1140 (9th Cir. 2012). The police's subsequent handcuffing, which goes unexplained, does not by itself suggest intertwinement or governmental nexus with CMS. *Cf. Jensen v. Lane County*, 222 F.3d 570, 575 (9th Cir. 2000). Darden's operative complaint contains no other allegation raising

plausible state action. The absence of state action is fatal to his Section 1983 claim. *Am. Mfrs. Mut. Ins. Co. v. Sullivan*, 526 U.S. 40, 50 (1999).

The district court did not abuse its discretion in denying Darden's request for oral argument, which did not provide a "compelling reason" to grant. *Spradlin*, 926 F.2d at 867. Finally, the district court's denial of access to a law library may be grounds for reversal only where the plaintiff has demonstrated prejudice to his ability to access the courts. *See Jones v. Blanas*, 393 F.3d 918, 936 (9th Cir. 2004). Darden, who could have accessed other law libraries, has not done so.

**AFFIRMED.**