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

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FRANK JARVIS ATWOOD,

Plaintiff-Appellant,

v.

RYAN THORNELL, Director, Arizona
Department of Corrections, Rehabilitation
& Reentry^{**}; STACI IBARRA, Warden,
ASPC-Eyman^{***}; RON CREDIO, Warden,
ASPC-Florence^{****}; LANCE HETMER,
Assistant Director for Prison Operations,
Arizona Department of Corrections,
Rehabilitation & Reentry,

Defendants-Appellees.

No. 23-2247

D.C. No.

2:22-cv-00625-JAT-JZB

MEMORANDUM*

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

** Ryan Thornell has been substituted for his predecessor, David Shinn, as Director, Arizona Department of Corrections, Rehabilitation & Reentry. *See* Fed. R. App. P. 43(c)(2).

*** Staci Ibarra has been substituted for her predecessor, James Kimble, as Warden, ASPC-Eyman. *See* Fed. R. App. P. 43(c)(2).

**** Ron Credio has been substituted for his predecessor, Jeff Van Winkle, as Warden, ASPC-Florence. *See* Fed. R. App. P. 43(c)(2).

Appeal from the United States District Court
for the District of Arizona
James A. Teilborg, Senior District Judge, Presiding

Submitted April 23, 2024*****

Before: McKEOWN, CALLAHAN, and IKUTA, Circuit Judges.

Counsel for Frank Jarvis Atwood appeals the district court’s denial of a motion for attorneys’ fees. The fee request arose from Atwood’s successful litigation under the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA), 42 U.S.C. § 2000cc *et seq.*, to secure accommodation of his religious practices in connection with his execution in June 2022. We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

The district court correctly applied the governing law, and so did not abuse its discretion. *See Briseño v. Henderson*, 998 F.3d 1014, 1022 (9th Cir. 2021). Under the District of Arizona local rules, a party moving for attorneys’ fees must attest to the parties’ “personal consultation and good faith efforts” to “resolve all disputed issues relating to attorneys’ fees,” or to the movant’s “good faith effort . . . to arrange such [a] conference.” D. Ariz. Loc. R. Civ. P. 54.2(d)(1). “No motion for award of attorneys’ fees will be considered” without such an attestation.

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

Id. A district court’s local rules “have the force of law,” *Hollingsworth v. Perry*, 558 U.S. 183, 191 (2010) (per curiam) (cleaned up), and Atwood’s counsel concedes that “the District Court is . . . entitled to enforce and protect its local rules.” Because Atwood’s counsel had neither consulted with opposing counsel nor made a good faith effort to arrange a consultation, the district court did not abuse its discretion in denying the motion on that basis.

Atwood’s counsel argues that attorneys’ fee awards in RLUIPA cases are exclusively governed by 42 U.S.C. § 1988(b), which leaves courts only “very narrow” discretion to deny an award. *Barnard v. Theobald*, 721 F.3d 1069, 1077 (9th Cir. 2013). This is unavailing. Atwood’s counsel forfeited this argument by failing to raise it to the district court in either his reply in support of the motion for fees or his motion for reconsideration. *See Allen v. Ornoski*, 435 F.3d 946, 960 (9th Cir. 2006). Even if we were to consider the argument, we are not convinced that in this case § 1988’s authorization of attorneys’ fees overrides a threshold requirement of the district court’s local rule, which itself has the force of law.

AFFIRMED.