

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

APR 2 2026

FOR THE NINTH CIRCUIT

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

CHARLES HEAD,

Plaintiff - Appellant,

v.

Officer J. ROCHA, individual; KENNETH CHIN, individual; Police Officer QUINN, individual; Officer C. MCPHAIL, Officer, Badge no. A171 La Habra Police Department also known as John Doe,

Defendants - Appellees.

No. 23-3648

D.C. No.

8:21-cv-01317-DOC-DFM

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
David O. Carter, District Judge, Presiding

Submitted April 2, 2026**

Before: O'SCANNLAIN, SILVERMAN, and RAWLINSON, Circuit Judges.

Charles Head appeals from the district court's grant of summary judgment in favor of the defendants in his 42 U.S.C. § 1983 civil rights action alleging federal

* 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).

claims of evidence fabrication and malicious prosecution. We have jurisdiction pursuant to 28 U.S.C. § 1291. We review the grant of summary judgment de novo, *Richards v. Cnty. of San Bernardino*, 39 F.4th 562, 569 (9th Cir. 2022), and affirm.

The district court acted within its discretion by denying the motion for appointment of counsel because the case did not warrant a finding of exceptional circumstances. The legal and factual issues in this case are not complex, and Head has demonstrated an ability to articulate his claims. *See Agyeman v. Corr. Corp. of Am.*, 390 F.3d 1101, 1103 (9th Cir. 2004) (setting forth the standard).

The district court did not abuse its discretion by denying Head's motion to strike his own deposition. The district court reasonably held that Head had sufficient time to prepare for his deposition. Defendants' August 25 status report stated that the defendants were negotiating with the prison to schedule the deposition. A month after the status report, on September 20, the district court ordered that the defendants take the deposition in prison on October 4. Head acknowledged two days later in a court filing that he was aware of the scheduled deposition. Under the circumstances, Head had ample time to prepare. *See El Pollo Loco, Inc. v. Hashim*, 316 F.3d 1032, 1038 (9th Cir. 2003) (setting forth the standard of review for a motion to strike).

Summary judgment was proper for the defendants. Both claims were premised on Head's allegations that the defendants lied in their 2006 police reports

about whether Head had re-registered his gun as an assault weapon after California law changed in 2000 to reclassify the gun as an assault weapon. *See* Cal. Penal Code § 12276.1(a) (2000) (reclassifying the gun as an assault weapon); Cal. Penal Code § 12285(a) (2000) (requiring new registration of reclassified weapons as assault weapons).¹ However, after viewing the 2006 videotape of his interview with the detective, Head admitted in deposition testimony in this case that he told the detective in the 2006 interview that he had not registered the gun as an assault weapon after the 2000 change in the law. Both of Head's claims fail because Head's own testimony establishes that the defendants did not lie in their reports about whether Head had registered the gun as an assault weapon. *See Spencer v. Peters*, 857 F.3d 789, 798-99 (9th Cir. 2017) (setting forth the elements of a fabrication of evidence claim); *Smith v. Almada*, 640 F.3d 931, 938 (9th Cir. 2011) (setting forth the elements of a malicious prosecution claim). Moreover, Head's 2006 admission provided probable cause for the police to believe that Head had

¹The statute provided:

any person who lawfully possessed an assault weapon prior to the date it was defined as an assault weapon pursuant to Section 12276.1, and which was not specified as an assault weapon under Section 12276 or 12276.5, shall register the firearm within one year of the effective date of Section 12276.1, with the department pursuant to those procedures that the department may establish.

Cal. Penal Code § 12285(a) (2000).

committed the crime of possessing an unregistered assault weapon in violation of California Penal Code § 12280(b) (2006). Probable cause is a complete defense for malicious prosecution. *Fortson v. Los Angeles City Attorney's Office*, 852 F.3d 1190, 1194 (9th Cir. 2017).

Whether Head initially registered the gun when he purchased it in 1998 is not material to his claims. Head was charged with possessing an unregistered *assault* weapon, not with failing to register the gun when he first purchased it.

The district court did not err in holding that Head's newly alleged reasons for being exempt from registration could not be raised for the first time in response to defendants' motion for summary judgment. *Wasco Prod., Inc. v. Southwall Tech., Inc.*, 435 F.3d 989, 992 (9th Cir. 2006). Nor were the alleged new facts material. Absent admissible evidence that the defendants knew these facts in 2006, neither allegation is relevant to whether the defendants lied in their 2006 reports or whether probable cause existed in 2006. *See Hart v. Parks*, 450 F.3d 1059, 1063 n.3 (9th Cir. 2006) (noting that "facts uncovered after the arrest are irrelevant to determining whether there was probable cause to arrest in the first place.") (internal quotation marks omitted); *Spencer*, 857 F.3d at 798 (requiring proof that the alleged fabricated evidence injured the plaintiff).

AFFIRMED.