

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

JUL 23 2026

FOR THE NINTH CIRCUIT

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

ALI KANE, AKA Abdoulaye Toumbou,

Plaintiff - Appellant,

v.

RONALD HAYNES, Airway Heights
corrections center Superintendent;
CHERYL STRANGE, Secretary of Prisons;
JAMES KEY, Deputy Secretary of Prisons;
PAUL DUENICH, CPM; WILLIAM
STOCKWELL, Custody Unit Supervisor
(CUS); TROY STULL, Unit Sergeant;
RIVERA, Correctional Officer; UNFRED,
Correctional Officer,

Defendants - Appellees.

No. 25-2191

D.C. No.

4:24-cv-05130-RLP

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of Washington
Rebecca L. Pennell, District Judge, Presiding

Submitted July 15, 2026**

Before: McKEOWN, OWENS, and LEE, Circuit Judges.

* 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).

While transferring then-inmate Ali Kane between units at the Airway Heights Correctional Center, Department of Corrections (DOC) officers disposed of an unmarked Arabic-language copy of the Quran. After Kane initiated DOC's grievance process, DOC offered Kane a replacement copy in English. Kane refused, stating that his religious practice requires him to memorize and utter his prayers in Arabic.

Kane sued the correctional officers in their official capacity under 42 U.S.C. § 1983, claiming the officers' destruction of Kane's copy of the Quran and refusal to provide a substitute Arabic-language copy violated his First Amendment right to free exercise. The district court entered summary judgment for the defendants. Kane appeals pro se. "We review de novo a district court's grant or denial of summary judgment." *Duarte v. City of Stockton*, 60 F.4th 566, 570 (9th Cir. 2023). This includes a district court's grant of qualified immunity. *Cardenas-Ornelas v. Johnson*, 165 F.4th 1234, 1239 (2026). We reverse and remand.

1. Free exercise claim. To prevail on a First Amendment free exercise claim in the context of a prison, a plaintiff-prisoner must demonstrate that the practice at issue reflects his sincerely held religious beliefs. *Shakur v. Schriro*, 514 F.3d 878, 884-85 (9th Cir. 2008). Once he has made the threshold "sincerity" showing, the court applies the multi-factor balancing test from *Turner v. Safley*, 482 U.S. 78 (1987), to determine whether the prison may permissibly limit the plaintiff's free

exercise right to further a legitimate penological interest. *See Malik v. Brown*, 16 F.3d 330 (9th Cir. 1994); *see also Walker v. Beard*, 789 F.3d 1125, 1138 (9th Cir. 2015).

Here, no party disputes that Kane sincerely believes practicing his religion requires access to an Arabic-language Quran. Kane explained that the verses must be memorized and recited accurately in Arabic to qualify as prayer, requiring ongoing study. Kane further offered that his inability to memorize the Arabic passages has severe religious consequences (*e.g.*, sin cannot be forgiven as required by Islam), and Kane, having since forgotten the verses, cannot meet his daily religious obligations.

The district court, however, did not then evaluate whether the government has shown a legitimate penological interest justifying its actions under the *Turner* factors. We thus remand so that the district court may consider the *Turner* factors. *See Turner*, 428 U.S. at 90 (listing as relevant considerations (1) whether there exists a “valid, rational connection” between the prison’s regulation and government’s purported interest; (2) whether there exists an alternative means for the prisoner’s exercise of the asserted right; (3) the impact of accommodation on guards and other inmates; and (4) whether the prison has ready alternatives).

2. Qualified immunity. Because the district court did not determine whether DOC’s actions were justified by a legitimate penological interest, we reverse and

remand the qualified immunity decision.

REVERSED and **REMANDED** for further proceedings.