

**NONPRECEDENTIAL DISPOSITION**

To be cited only in accordance with FED. R. APP. P. 32.1

**United States Court of Appeals****For the Seventh Circuit****Chicago, Illinois 60604**

Submitted February 24, 2026\*

Decided March 13, 2026

**Before**MICHAEL B. BRENNAN, *Chief Judge*THOMAS L. KIRSCH II, *Circuit Judge*JOSHUA P. KOLAR, *Circuit Judge*

No. 25-1523

FRANK T. WHITEHEAD,  
*Plaintiff-Appellant,**v.*GREGORY PLANTZ and RON WAAS,  
*Defendants-Appellees.*Appeal from the United States District  
Court for the Eastern District of  
Wisconsin.

No. 2:22-CV-00904

Lynn Adelman,  
*Judge.***ORDER**

Frank Whitehead, a Wisconsin prisoner, asserts that prison guards violated his constitutional rights under 42 U.S.C. § 1983 by, among other things, refusing to hire him based on his religious beliefs and retaliating against him for complaining to the warden

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\* We have agreed to decide the case without oral argument because the briefs and record adequately present the facts and legal arguments, and oral argument would not significantly aid the court. FED. R. APP. P. 34(a)(2)(C).

about a guard's conduct. The district court entered summary judgment for the defendants. We affirm.

We recount the facts in the light most favorable to Whitehead, the nonmovant. *See Prude v. Meli*, 76 F.4th 648, 659 (7th Cir. 2023). In February 2022, Whitehead was transferred to Fox Lake Correctional Institution in Fox Lake, Wisconsin. One month later, he applied for a position in one of the prison units' serveries. He was one of ten prisoners to apply. When Whitehead later spoke about the position with Gregory Plantz, the prison guard who did most of the hiring for the unit, Whitehead said he would not be able to work on Saturdays, the Sabbath, because he is a follower of Yahweh's Evangelical Assembly.

The parties dispute what happened next. According to Whitehead, Plantz described himself as an atheist and said he would not hire anyone who needed special days off. Plantz, on the other hand, maintained that Whitehead was a bad fit for the job because servery staff needed to be available on Saturdays and Whitehead in the past had treated servery staff poorly. Plantz added that he offered to refer Whitehead for jobs that did not require availability on weekends. In any case, the parties agree that Whitehead's unavailability on Saturdays was Plantz's stated reason why Whitehead did not get the job. When another servery position opened, Whitehead asked Plantz if a fellow prisoner could pick up his Saturday shifts, and Plantz replied that he would not allow shift swapping.

The parties also agree that Whitehead did not avail himself of the prison's established procedure for securing a religious exemption from work. A policy of the Wisconsin Division of Adult Institutions requires supervisors to honor prisoners' requests to abstain from work only if the prison's chaplain first approves a written request for a work proscription. Wis. Dep't of Corr., Div. of Adult Insts., DAI Policy # 309.61.01(II)(F), Excuse from Work / Program for Religious Observance (2026). Whitehead did not submit such a request before or during the events at issue.<sup>†</sup>

After being denied the job, Whitehead sent a grievance letter to the prison's warden, complaining that Plantz refused to hire him based on his observance of the Sabbath. The warden responded in writing, acknowledging receipt of the grievance. Whitehead was handed the warden's response by another guard, Ron Waas, who shouted in front of other prisoners, "Plantz said you're a snitch." Whitehead provided

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<sup>†</sup> Whitehead did apply to the chaplain for a work proscription several months later and reported no difficulty receiving approval.

multiple affidavits from other prisoners corroborating his account of the incident. He says that Waas's labeling of him as a snitch spread through the prison and precipitated attacks on him by other prisoners. For his part, Waas denies that he was present when the warden's letter arrived, that he read the letter, that he spoke to Plantz about the letter, or that he used the word "snitch" when speaking to or about any prisoner.

Whitehead sued Plantz, Waas, an institutional complaint examiner, and the warden for violations of his constitutional rights. *See* 42 U.S.C. § 1983. At screening, the district court allowed Whitehead to proceed on claims that Plantz violated his rights under the First Amendment and the Equal Protection Clause of the Fourteenth Amendment by refusing to hire him. The court also allowed Whitehead to proceed on a claim that, in response to his complaint to the warden about Plantz, Waas retaliated against him in violation of his rights under the First Amendment by calling him a snitch. The court then determined it would exercise supplemental jurisdiction over Whitehead's state-law claim for intentional infliction of emotional distress.

After the close of discovery, the district court granted summary judgment to the defendants. The court first determined that no reasonable jury could find that Plantz unjustifiably burdened Whitehead's free exercise of his religion, since Whitehead could have requested a work-proscription accommodation from the chaplain allowing him to hold a server position and abstain from work on Saturdays. Regarding Whitehead's equal protection claim, the court determined that no reasonable jury could find that Plantz's actions had a discriminatory effect because Whitehead did not provide evidence that he was treated differently from similarly situated prisoners. As for Whitehead's retaliation claim, the court concluded that he did not present any evidence that his complaint to the warden motivated Waas's alleged conduct. And even if Whitehead could show a causal link, the court added, Waas was entitled to qualified immunity because no clearly established law held that a correctional officer's offhand comment calling a prisoner a snitch in front of others violated the prisoner's First Amendment rights. Having disposed of all of Whitehead's federal claims, the court relinquished supplemental jurisdiction over Whitehead's state-law claim of intentional infliction of emotional distress.

On appeal, Whitehead first challenges the district court's determination that no reasonable jury could conclude that Plantz unjustifiably burdened his ability to keep the Sabbath. Whitehead contends that the court should not have considered the availability of a work-proscription accommodation because Plantz did not advise him that he needed one to qualify for the server job.

To prevail on a free exercise of religion claim under the First Amendment, a plaintiff must submit evidence from which a jury could find that the defendant “unjustifiably placed a substantial burden on his religious practices” —in other words, “substantial[ly] pressur[ed]” him to change his behavior and violate his beliefs. *Neely-Bey Tarik-El v. Conley*, 912 F.3d 989, 1003 (7th Cir. 2019). And no reasonable jury could find that Plantz substantially pressured Whitehead to violate his beliefs, given that Whitehead failed to follow the established protocol to request a work-proscription accommodation. (Indeed, that accommodation was later granted—without incident—at Whitehead’s request.) Whitehead introduced no evidence to suggest that the protocol—seeking approval from a prison chaplain substantiating the religious basis for an accommodation—is a substantial burden on free expression. *See Kaufman v. McCaughtry*, 419 F.3d 678, 682–83 (7th Cir. 2005) (no substantial burden where prisoner failed to show that denial of permission to form a study group prevented him from effectively practicing his religion).

Next, Whitehead argues that the district court wrongly rejected his retaliation claim on grounds that he could not establish one of the elements of the *prima facie* case of retaliation—that the First Amendment activity “was at least a factor that motivated the adverse action.” *Adams v. Reagle*, 91 F.4th 880, 887 (7th Cir. 2024) *cert. denied sub nom. Adams v. Arnold*, 146 S.Ct. 296 (2025). Whitehead asserts that Waas’s labeling of him as a snitch, in the context of delivering the warden’s response, establishes retaliatory motive.

Perhaps Whitehead is correct that a reasonable jury could infer that it was his complaint to the warden that motivated Waas to call him a snitch in front of other prisoners. After all, Whitehead provided multiple affidavits—his own as well as those from other prisoners—asserting that Waas handed over the warden’s letter while shouting at him, “Plantz said you’re a snitch.” All parties agree that Waas’s statement, if true, would place Whitehead at risk of harm. And given the alleged circumstances, a jury could infer from Waas’s statement that Waas was angry with Whitehead for complaining to the warden about Plantz.

That, however, does not end our inquiry into retaliation because the district court also ruled, in the alternative, that Waas was protected by qualified immunity. Government officials are protected from liability under § 1983 unless the plaintiff shows “(1) that the official violated a statutory or constitutional right, and (2) that the right was ‘clearly established’ at the time of the challenged conduct.” *Sabo v. Erickson*, 128 F.4th 836, 843 (7th Cir. 2025) (en banc) (quoting *Ashcroft v. al-Kidd*, 563 U.S. 731, 735 (2011)). A right is clearly established if existing precedent places the constitutional or statutory

question “beyond debate.” *Id.* at 844 (quoting *Kisela v. Hughes*, 584 U.S. 100, 104 (2018)). The district court here found no clearly established precedent that a prisoner’s First Amendment rights were violated by a guard’s offhand comment calling him a snitch for complaining about another guard.

Whitehead challenges the court’s ruling on grounds that courts in other circuits have determined that prison guards who label prisoners snitches may violate the Eighth Amendment. But even if we accept the conclusion of other circuits that prison officials may violate the Eighth Amendment by branding prisoners as snitches, *see, e.g., Irving v. Dormire*, 519 F.3d 441, 451 (8th Cir. 2008); *Benefield v. McDowall*, 241 F.3d 1267, 1271 (10th Cir. 2001); *Valandingham v. Bojorquez*, 866 F.2d 1135, 1138–39 (9th Cir. 1989), Whitehead has not identified any precedent clearly establishing that the First Amendment is violated by the circumstances of the alleged retaliation here—a guard calling a prisoner a snitch in front of others, in response to the prisoner’s complaint about another guard’s conduct. And while we can look beyond our circuit precedent to determine whether a right is clearly established through “a consensus of cases of persuasive authority such that a reasonable officer could not have believed that his actions were lawful[.]” *Wilson v. Layne*, 526 U.S. 603, 617 (1999), Whitehead does not advance a compelling argument for such a consensus. Thus, Whitehead has not met his burden of showing that our precedent placed the constitutional question presented here beyond debate, the judgment is

AFFIRMED.