

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 25-5386

September Term, 2026

FILED ON: OCTOBER 16, 2026

GRETCHEN THOMAS, ET AL.,
APPELLANTS

v.

SEAN P. DUFFY, NASA ACTING ADMINISTRATOR,
APPELLEE

Appeal from the United States District Court
for the District of Columbia
(No. 1:24-cv-01634)

Before: SRINIVASAN, *Chief Judge*, and KATSAS, *Circuit Judge*, and RANDOLPH, *Senior
Circuit Judge*

J U D G M E N T

This appeal was considered on the record from the United States District Court for the District of Columbia and on the briefs filed by the parties. *See* Fed. R. App. P. 34(a)(2); D.C. Cir. Rule 34(j). The panel has accorded the issues full consideration and has determined that they do not warrant a published opinion. *See* D.C. Cir. R. 36(d). It is hereby

ORDERED AND ADJUDGED that the district court’s September 9, 2025 judgment, entered following the grant of appellee’s motion to dismiss, be **AFFIRMED**.

Appellants challenge two workplace policies adopted by NASA during the COVID-19 pandemic. Pursuant to Executive Order 14,043, NASA required its employees to be vaccinated against COVID-19, subject to exceptions required by law. But a nationwide preliminary injunction prohibited enforcement of that requirement, and NASA accordingly suspended the vaccination requirement. In its place, NASA adopted a policy requiring unvaccinated employees to test for COVID-19 before entering NASA facilities.

Appellants are four NASA employees who sought religious accommodations from the vaccination and/or testing requirements. They sued under Title VII of the Civil Rights Act of 1964, alleging that NASA failed to accommodate their religious beliefs, and under the Religious Freedom Restoration Act (RFRA), seeking damages from former NASA Administrator Bill

Nelson in his individual capacity. The district court dismissed both claims.

Appellants fail to address the district court's grounds for dismissing either claim. As to Title VII, the district court determined that no appellant plausibly alleged a religious conflict that NASA failed to accommodate. Appellants never explain why that conclusion was wrong. *See* Appellants' Br. 8–14. As to the RFRA claim against former Administrator Nelson, appellants' briefing establishes only that RFRA permits individual-capacity damages in appropriate circumstances—a proposition the district court did not question. Appellants do not address the district court's ground for dismissing the claim: that the complaint fails to allege Nelson's personal involvement in any asserted violation. *See id.* at 4–8. Appellants thus have forfeited any challenge to those dispositive grounds. *See Farahi v. FBI*, 153 F.4th 1283, 1288 (D.C. Cir. 2025).

Even if we were to overlook the forfeitures, both claims fail on the merits for reasons explained by the district court. Under the framework the parties accepted below, a Title VII failure-to-accommodate claim requires the plaintiff to identify a bona fide religious belief that conflicts with an employment requirement and to provide notice of the conflict to the employer. *See Philbrook v. Ansonia Board of Education*, 757 F.2d 476, 481 (2d Cir. 1985); App. 39. Appellants' failure-to-accommodate claim with respect to NASA's vaccination policy fails because the policy was enjoined before NASA could act on appellants' requests for exemptions—and, indeed, before the agency could take action to implement or enforce the policy at all. *See* App. 40–42. As for appellants' claims with respect to the testing policy, three appellants failed to plausibly allege that testing conflicted with a religious belief, and the fourth sought an exemption only after NASA had suspended the testing requirement at her facility and failed in any event to plausibly allege that NASA enforced the requirement against her in any way. *See* App. 9–12, 42, 46–50.

Appellants' RFRA claim likewise lacks merit. An individual-capacity damages claim requires allegations that the defendant personally participated in the asserted violation. *See Simpkins v. District of Columbia Government*, 108 F.3d 366, 369 (D.C. Cir. 1997). Appellants' complaint identifies no act by Nelson in adopting or implementing either policy or responding to appellants' requests for religious accommodations. *See* App. 30, 34. The complaint's allegations instead rest on Nelson's position as head of NASA and his asserted ultimate responsibility for agency policy. *See* App. 34. Appellants therefore are left only with a theory of respondeat superior liability, which cannot support an individual-capacity damages claim. *See Ashcroft v. Iqbal*, 556 U.S. 662, 676 (2009).

For the foregoing reasons, the district court's judgment is affirmed.

* * * * *

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. We direct the Clerk to withhold issuance of the mandate herein until seven days after resolution of any timely petition

for rehearing or petition for rehearing en banc. *See* Fed. R. App. P. 41(b); D.C. Cir. R. 41.

Per Curiam

FOR THE COURT:

Clifton B. Cislak, Clerk

BY: /s/

Daniel J. Reidy

Deputy Clerk