

Supreme Court of the State of New York
Appellate Division, First Judicial Department

Renwick, P.J., Kennedy, Friedman, Mendez, Hagler, JJ.

6029

JEFFREY GLOWATZ,
Plaintiff-Appellant,

Index No. 159914/23
Case No. 2025-02547

-against-

THE CITY OF NEW YORK, et al.,
Defendants-Respondents.

The Law Office of Matt Bryant, P.C., Mineola (Matt Bryant of counsel), for appellant.

Muriel Goode-Trufant, Corporation Counsel, New York (Bo Malin-Mayor of counsel),
for respondents.

Order, Supreme Court, New York County (Jeanine R. Johnson, J.), entered on or
about April 4, 2025, which granted defendants' motion to dismiss the complaint,
unanimously affirmed, without costs.

The complaint should not have been dismissed as untimely. Plaintiff chose to
assert claims under the New York State and New York City Human Rights Laws rather
than seeking administrative review of the denial of his reasonable accommodation
request, as was his right (*see Dougherty v City of New York*, --- AD3d ----, 2026 NY Slip
Op 00421 [1st Dept 2026]; *Farah v City of New York*, 241 AD3d 1435, 1436 [2d Dept
2025], citing *Koerner v State of N.Y., Pilgrim Psychiatric Ctr.*, 62 NY2d 442, 446-448
[1984]). Accordingly, the complaint was timely filed because plaintiff's claims are
governed by a three-year statute of limitations (CPLR 214[2]; *see Koerner*, 62 NY2d at
447; *Pichardo v Carmine's Broadway Feast Inc.*, 199 AD3d 593 [1st Dept 2021]).

Nonetheless, the motion court properly dismissed the action because even under

a lenient notice pleading standard, it fails to state a cause of action for discrimination for failure to provide an accommodation under the State or City Human Rights Laws (see *Lively v Wafra Inv. Advisory Grp.*, 211 AD3d 432, 433 [1st Dept 2022]; CPLR 3211[a][7]). Plaintiff's bare allegation that taking the vaccine conflicted with the Ten Commandments' broad admonition "thou shalt not kill" was insufficient to show that he adhered to a bona fide religious practice or doctrine that defendants failed to accommodate (see *Kola v City of New York*, — AD3d —, 2026 NY Slip Op 00194, *1 [1st Dept 2026]; *Matter of Rysiejko v City of N.Y.*, 232 AD3d 432, 433 [1st Dept 2024]; *Matter of Marsteller v City of New York*, 217 AD3d 543, 544 [1st Dept 2023], *appeal dismissed and lv denied* 41 NY3d 960 [2024]; *Farah*, 241 AD3d at 1437; see also *Cagle v Weill Cornell Medicine*, 680 F Supp 3d 428, 435-436 [SD NY 2023]). Plaintiff's claim that the City failed to engage in a cooperative dialogue is also unavailing (see *Matter of Marsteller v City of New York*, 217 AD3d 543, 544 [1st Dept 2023], *appeal dismissed and lv denied* 41 NY3d 960 [2024]).

Plaintiff's cause of action seeking a declaratory judgment ordering the New York City Police Department to consider and grant his reinstatement request is essentially an article 78 claim for mandamus, as plaintiff seeks to have the NYPD Commissioner take affirmative action on his pending request (CPLR 7803[1]; see *New York Civ. Liberties Union v State of New York*, 4 NY3d 175, 183-184 [2005]; see also *Matter of Board of Mgrs. of Franklin Place Condominium v New York City Fire Dept.*, 213 AD3d 446, 446 [1st Dept 2023]). However, plaintiff failed to show that defendants have a nondiscretionary duty to grant the relief requested, or that he has a clear legal right to reinstatement (see *Matter of Flosar Realty LLC v New York City Hous. Auth.*, 127 AD3d

147, 152 [1st Dept 2015]). The decision to reinstate plaintiff is not subject to mandamus because it involves the exercise of discretion (*see id.*).

THIS CONSTITUTES THE DECISION AND ORDER
OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: March 10, 2026

A handwritten signature in black ink, appearing to read "Susanna Molina Rojas". The signature is fluid and cursive, with the first name "Susanna" being the most prominent part.

Susanna Molina Rojas
Clerk of the Court