

Cooper v. Pate, 378 U.S. 546 (1964)

378 U.S. 546, 84 S.Ct. 1733  
Supreme Court of the United States

COOPER  
v.  
PATE, Warden.

No. 1134, Misc.  
|  
June 22, 1964.

### Synopsis

State prisoner's suit, under the civil rights statutes, brought on allegations that, solely because of his religious beliefs, he was denied permission to purchase certain religious publications and denied other privileges enjoyed by other prisoners. The United States District Court for the Northern District of Illinois, Eastern Division, dismissed the proceeding, and the prisoner appealed. The United States Court of Appeals for the Seventh Circuit, 324 F.2d 165, affirmed. The plaintiff moved for leave to proceed in forma pauperis and petitioned for certiorari. The Supreme Court held that the complaint stated a cause of action.

Motion for leave to proceed in forma pauperis and petition for certiorari granted.

### Attorneys and Law Firms

**\*\*1734 \*546** Alex Elson and Bernard Weisberg, for petitioner.

William G. Clark, Atty. Gen. of Illinois, and Raymond S. Sarnow and Edward A. Berman, Asst. Attys. Gen., for respondent.

### Opinion

PER CURIAM.

The motion for leave to proceed in forma pauperis and the petition for a writ of certiorari are granted.

The petitioner, an inmate at the Illinois State Penitentiary, brought an action under 28 U.S.C. s 1343 and 42 U.S.C. s 1983, s 1979 of the Revised Statutes, alleging that solely because of his religious beliefs he was denied permission to purchase certain religious publications and denied other privileges enjoyed by other prisoners. The District Court granted the respondent's motion to dismiss for failure to state a claim on which relief could be granted and the Court of Appeals affirmed. 324 F.2d 165 (C.A.7th Cir.). We reverse the judgment below. Taking as true the allegations of the complaint, as they must be on a motion to dismiss, the complaint stated a cause of action and it was error to dismiss it. See *Pierce v. LaVallee*, 293 F.2d 233 (C.A.2d Cir.); *Sewell v. Pegelow*, 291 F.2d 196 (C.A.4th Cir.).

### All Citations

378 U.S. 546, 84 S.Ct. 1733, 12 L.Ed.2d 1030