

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

**Cole v. California Department of Corrections and Rehabilitation, et
al.**

Cole · No. 1:25-cv-00272 GSA (PC) · Decided April 3, 2025

SUMMARY

The United States District Court for the Eastern District of California denies George Lee Cole Jr.'s motion for appointment of counsel in his pro se 42 U.S.C. § 1983 action. The court finds that limited legal resources and lack of legal education do not establish exceptional circumstances, and that Plaintiff has adequately articulated his claims.

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 GEORGE LEE COLE, JR., No. 1:25-cv-00272 GSA (PC) 12 Plaintiff,
ORDER DENYING PLAINTIFF'S MOTION FOR THE APPOINTMENT OF COUNSEL 13 v.
(ECF No. 17) 14 CALIFORNIA DEPARTMENT OF CORRECTIONS AND 15
REHABILITATION, et al., 16 Defendants. 17 18 Plaintiff, a former state prisoner¹ proceeding
pro se and in forma pauperis, has filed this 19 civil rights action seeking relief under 42 U.S.C. §
1983.

The matter was referred to a United 20 States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)
(B) and Local Rule 302. 21 Plaintiff has filed a motion for the appointment of counsel. ECF No.
17. For the reasons 22 stated below, the motion will be denied. 23 I. MOTION FOR THE
APPOINTMENT OF COUNSEL 24 In support of Plaintiff's motion for the appointment of
counsel, which was filed while 25 Plaintiff was still incarcerated (see generally ECF No. 17),
Plaintiff states that the minimal 26 27 1 On April 2, 2025, a notice of change of address filed by
Plaintiff was docketed.

ECF No. 19. In it, the new address Plaintiff provides appears to be a residential one indicating that
Plaintiff has 28 likely been released from custody. 1 facility yard where he was housed had no law
room or legal clerk. Id. In addition, Plaintiff states 2 that the prison will not provide him with any
resources. Id. 3 II. DISCUSSION 4 A. Applicable Law 5 District courts lack authority to require
counsel to represent indigent people in section 6 1983 cases.

See *Mallard v. United States Dist. Court*, 490 U.S. 296, 298 (1989). In exceptional 7
circumstances, the court may request an attorney to voluntarily represent such a plaintiff. See 28 8

U.S.C. § 1915(e)(1). *Terrell v. Brewer*, 935 F.2d 1015, 1017 (9th Cir. 1991); *Wood v. Housewright*, 900 F.2d 1332, 1335-36 (9th Cir. 1990). When determining whether “exceptional circumstances” exist, the court must consider plaintiff’s likelihood of success on the merits as well as the ability of the plaintiff to articulate his claims pro se in light of the complexity of the legal issues involved.

Palmer v. Valdez, 560 F.3d 965, 970 (9th Cir. 2009) (district court did not abuse discretion in declining to appoint counsel). The burden of demonstrating exceptional circumstances is on the plaintiff. *Id.* Circumstances common to many, such as lack of legal education and limited law library access, do not establish exceptional circumstances that warrant a request for voluntary assistance of counsel.

B. Analysis Although the Court has yet to screen Plaintiff’s complaint in order to determine whether his complaint is likely to be successful on its merits, a cursory review of the pleadings that Plaintiff has filed to date, as well as how he has managed this matter thus far, indicates that Plaintiff is able to articulate his claims with adequate sufficiency.

See generally ECF No. 1 (complaint). Therefore, having considered the factors under *Palmer*, the Court finds that plaintiff has failed to meet his burden of demonstrating exceptional circumstances warranting the appointment of counsel at this time. Accordingly, IT IS HEREBY ORDERED that Plaintiff’s motion for the appointment of counsel (ECF No. 17) is DENIED.

IT IS SO ORDERED. 1 Dated: April 2, 2025 /s/ Gary S. Austin 2 UNITED STATES
MAGISTRATE JUDGE 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28