

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

OPINION

(PC) Cole v. California Department of Corrections and Rehabilitation

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

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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. 9 Housewright, 900 F.2d 1332, 1335-36 (9th Cir. 1990). When determining whether “exceptional 10 circumstances” exist, the court must consider plaintiff’s likelihood of success on the merits as 11 well as the ability of the plaintiff to articulate his claims pro se in light of the complexity of the 12 legal issues involved. Palmer v. Valdez, 560 F.3d 965, 970 (9th Cir. 2009) (district court did not 13 abuse discretion in declining to appoint counsel). The burden of demonstrating exceptional 14 circumstances is on the plaintiff. Id. Circumstances common to many, such as lack of legal 15 education and limited law library access, do not establish exceptional circumstances that warrant 16 a request for voluntary assistance of counsel. 17 B. Analysis 18 Although the Court has yet to screen Plaintiff’s complaint in order to determine whether 19 his complaint is likely to be successful on its merits, a cursory review of the pleadings that 20 Plaintiff has filed to date, as well as how he has managed this matter thus far, indicates that 21 Plaintiff is able to articulate his claims with adequate sufficiency. See generally ECF No. 1 22 (complaint). Therefore, having considered the factors under Palmer, the Court finds that plaintiff 23 has failed to meet his burden of demonstrating exceptional circumstances warranting the 24 appointment of counsel at this time. 25 Accordingly, IT IS HEREBY ORDERED that Plaintiff’s motion for the appointment of 26 counsel (ECF No. 17) is DENIED. 27 IT IS SO ORDERED. 28

1 Dated: April 2, 2025 /s/ Gary S. Austin 2

UNITED STATES MAGISTRATE JUDGE

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