

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Walter R. Reid v. Barry Green

Reid v. Green · No. 1:22-cv-00549-KES-EPG (PC) · Decided December 5, 2025

SUMMARY

The Eastern District of California denied Plaintiff Walter R. Reid’s motion to appoint an independent medical expert under Federal Rule of Evidence 706(a) in his § 1983 Eighth Amendment deliberate-indifference action against Barry Green. The court concluded that the medical issues were not unusually complex and that Plaintiff could address the opposing expert’s opinions through cross-examination, testimony from his own witness, and argument to the jury.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	December 5, 2025
DOCKET	1:22-cv-00549-KES-EPG (PC)
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff, a state prisoner proceeding pro se in a 42 U.S.C. § 1983 action alleging deliberate indifference to serious medical needs, moved under Federal Rule of Evidence 706(a) for appointment of an independent medical expert. The district court denied the motion.
STANDARD OF REVIEW	The court applied the discretionary standard governing appointment of experts under Federal Rule of Evidence 706(a).
PRECEDENTIAL VALUE	Nonprecedential district court order
PARTIES	Walter R. Reid v. Barry Green

TOPICS

- section 1983
- prisoners rights
- expert testimony
- evidence
- civil procedure

PRACTICE AREAS

- civil rights
- prisoner medical care
- evidence

QUESTIONS PRESENTED

1. Whether the court should appoint an independent medical expert under Federal Rule of Evidence 706(a) because competing medical testimony allegedly created a need for neutral expert assistance.

HOLDINGS

1. The court denied Reid's motion for appointment of an independent medical expert because he did not demonstrate that appointment was necessary and the case was not sufficiently complex to require court-appointed expert assistance.

KEY QUOTATIONS

“Rule 706 should be invoked only in rare and compelling circumstances.” (at 1)

“Court-appointed experts are typically used in complex litigation to assist the finder of fact.” (at 1)

“Plaintiff can cross-examine Defendant’s expert at trial, and question the expert regarding the basis of his or her opinion and lack of any examination or treatment of Plaintiff.” (at 2)

FACTUAL BACKGROUND

Reid, a state prisoner, alleged that Green failed to properly treat his bladder infection and related suprapubic-catheter issues. Reid sought a court-appointed medical expert because he believed Green's expert testimony would conflict with the diagnosis and records of Dr. Kandkhorova, despite the expert's not having physically examined or treated Reid. The court concluded that the case involved a single claim and limited medical issues concerning Green's treatment, and was not unusually complex.

PROCEDURAL HISTORY

Reid's action proceeded on an Eighth Amendment deliberate-indifference claim against Green concerning treatment of Reid's bladder-related medical issues and alleged bladder infection. Reid moved for appointment of an independent medical expert, arguing that competing expert testimony would create difficulty for the court and jury. Green opposed the motion, and the district court denied it without awaiting a reply because the court did not find one necessary.

DISPOSITION

other

CASES CITED

- Walker v. American Home Shield Long Term Disability Plan, 180 F.3d 1065, 1071 (9th Cir. 1999)
- Monolithic Power Systems, Inc. v. O2 Micro International Ltd., 558 F.3d 1341, 1348 (Fed. Cir. 2009)
- Wilkins v. Barber, 562 F. Supp. 3d 943, 945 (E.D. Cal. 2021)
- Faletogo v. Moya, No. 12CV631 GPC WMC, 2013 WL 524037, at *2 (S.D. Cal. Feb. 12, 2013)
- Brooks v. Tate, No. 1:11-CV-01503 AWI, 2013 WL 4049043, at *1 (E.D. Cal. Aug. 7, 2013)

OPINION

1 2 3 4 5 6 7 UNITED STATES DISTRICT COURT 8 EASTERN DISTRICT OF CALIFORNIA
9 10 WALTER R. REID, Case No. 1:22-cv-00549-KES-EPG (PC) 11 Plaintiff, ORDER
DENYING PLAINTIFF’S MOTION 12 v. REQUESTING THAT THE COURT APPOINT AN
INDEPENDENT MEDICAL 13 BARRY GREEN, EXPERT 14 Defendant. (ECF No. 84). 15 16
17 I. INTRODUCTION 18 Plaintiff Walter R. Reid is a state prisoner proceeding pro se in this
civil rights action 19 filed pursuant to 42 U.S.C. § 1983.

This case proceeds on Plaintiff’s Eighth Amendment claim 20 against Defendant Green for
deliberate indifference to his serious medical needs, which claim 21 generally stems from Green’s
alleged failure to properly treat Plaintiff’s bladder infection. 22 (ECF No. 24, p. 4). 23 Now before
the Court is Plaintiff’s motion requesting that the Court appoint an 24 independent medical expert.

(ECF No. 84). Plaintiff states that “Defendant Green has presented 25 the Court with expert
witness testimony starkly conflicting to the expert treatment and record 26 keeping of Dr.
Kandkhorova who plaintiff intends to call as a witness.” (Id. at 1). Further, 27 “Defendant’s expert
witness contest[s] the treatment and diagnosis of Dr. Kandkhorova without 28 any physical
examination made of plaintiff nor treatment for pain and injuries suffered.” (Id.).

1 Plaintiff states that this “places the [C]ourt in an a[w]kward position in drawing an expert 2
evaluation whether the extent of medical care provided was in fact necessary.” (Id.). 3 Plaintiff
concludes by stating that the jury will have to weigh three expert witnesses— 4 Defendant Green,
Dr. Kandkhorova, and Dr. Nguyen (presumably Defendant’s expert)—and 5 requests the
appointment of an independent court-appointed expert under Rule 706(a) of the 6 Federal Rules of
Evidence.

(Id. at 2). 7 On December 4, 2025, Defendant filed an opposition to the motion, arguing that “there
8 are no complex issues that would justify the appointment of a neutral expert witness in this 9
case, which primarily concerns the question of whether Plaintiff had an infection in his 10
suprapubic catheter on October 21, 2017.” (ECF No. 85, p. 2). 11 II. LEGAL STANDARD 12
The Court “has the discretion to appoint an expert” pursuant to Rule 706(a).

See Walker 13 v. American Home Shield Long Term Disability Plan, 180 F.3d 1065, 1071 (9th Cir.
1999). 14 Rule 706(a) states as follows: “On a party’s motion or on its own motion, the court may
order 15 the parties to show cause why expert witnesses should not be appointed and may ask the
parties 16 to submit nominations.

The court may appoint any expert that the parties agree on and any of 17 its own choosing.” Fed.
R. Evid. 706(a). 18 “Rule 706 should be invoked only in rare and compelling circumstances.”
Monolithic 19 Power Systems, Inc. v. O2 Micro Intern. Ltd., 558 F.3d 1341, 1348 (Fed. Cir. 2009).
Court- 20 appointed experts are typically used in complex litigation to assist the finder of fact.

See 21 Walker, 180 F.3d at 1071 (noting that the district court appointed an independent medical
22 expert where medical testimony was not “particularly clear”); see also Wilkins v. Barber, 562
23 F.Supp.3d 943, 945 (E.D. Cal. 2021) (“[C]ourt-appointed experts typically are used in complex
24 litigation where the record is not clearly developed by the parties, and generally serve the 25
purpose of aiding the court in understanding the subject matter at hand.”).

However, 26 27 1 The Court does not believe a reply would be useful, and given the upcoming
expert disclosure deadline 28 of January 7, 2026, believes it prudent to issue an order on this
motion now. (ECF No. 83). Accordingly, the Court has not waited the period for Plaintiff to file a
reply brief. 1 independent experts are not appointed for the purpose of advocating for one party.

See 2 Faletogo v. Moya, No. 12CV631 GPC WMC, 2013 WL 524037, at *2 (S.D. Cal. Feb. 12, 3
2013) (“Rule 706(a) of the Federal Rules of Evidence does not contemplate court appointment 4
and compensation of an expert witness as an advocate for one of the parties.”); Brooks v. Tate, 5
No. 1:11-CV-01503 AWI, 2013 WL 4049043, at *1 (E.D. Cal. Aug. 7, 2013) (noting that 6 “Rule
706 is not a means to avoid the in forma pauperis statute and its prohibition against using 7 public
funds to pay for the expenses of witnesses”).

8 III. ANALYSIS 9 The Court will deny Plaintiff’s motion for an independent court-appointed
medical 10 expert. 11 Plaintiff argues that the Court should appoint an expert because Defendant
Green 12 intends to present expert testimony that calls into question the diagnosis of a witness in
the 13 case, Dr. Kandkhorova, despite the expert not conducting any physical examination or 14
treatment of the Plaintiff.

However, Plaintiff can cross-examine Defendant’s expert at trial, and 15 question the expert
regarding the basis of his or her opinion and lack of any examination or 16 treatment of Plaintiff.
Moreover, Plaintiff has the ability to call Dr. Kandkhorova as a witness 17 and question him or her
regarding the basis for the diagnosis of Plaintiff. Plaintiff may also 18 present argument to the jury
why Dr. Kandkhorova’s diagnosis was correct.

19 Further, Plaintiff has not demonstrated that the appointment of an independent expert is 20
necessary in this case. This case is proceeding on a single claim against Defendant Green. The 21
medical issues will be limited to Defendant Green’s treatment of Plaintiff’s bladder-related 22
issues. This is not an unduly complicated case requiring the assistance of an expert witness to 23
understand.

24 \\\ 25 \\\ 26 \\\ 27 \\\ 28 \\\ 1 IV. CONCLUSION AND ORDER 2 Accordingly, IT IS
ORDERED that Plaintiff’s motion requesting that the Court appoint 3 || an independent medical
expert is denied. (ECF No. 84). 4 5 IT IS SO ORDERED. © || Dated: _ December 5, 2025 □□□
hey — 7 UNITED STATES MAGISTRATE JUDGE 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22
23 24 25 26 27 28

