

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.

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).1 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 question the expert regarding the basis of his or her opinion and lack of any examination or treatment of Plaintiff. Moreover, Plaintiff has the ability to call Dr. Kandkhorova as a witness and question him or her regarding the basis for the diagnosis of Plaintiff. Plaintiff may also present argument to the jury why Dr. Kandkhorova's diagnosis was correct.

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