

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA**

Ivory Lewis Downs, Jr. v. M. Jiminez, et al.

Downs v. Jiminez · No. 2:22-cv-1021 TLN AC P · Decided December 29, 2025

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 IVORY LEWIS DOWNS, JR., No. 2:22-cv-1021 TLN AC P 12 Plaintiff, 13
v. ORDER 14 M. JIMINEZ, et al., 15 Defendants. 16 17 Plaintiff has filed a motion for a third,
thirty-day extension of the deadline to serve 18 discovery requests in which he also requests the
appointment of counsel.

ECF No. 71. 19 Good cause appearing, the request for an extension of time will be granted, but
plaintiff is 20 cautioned that no further extensions of time will be granted absent a showing of
extraordinary 21 circumstances.

The deadlines for the filing of motions to compel and completion of discovery 22 will also be
extended. 23 With respect to the request for appointment of counsel, the United States Supreme
Court 24 has ruled that district courts lack authority to require counsel to represent indigent
prisoners in 25 § 1983 cases. *Mallard v. United States Dist. Court*, 490 U.S. 296, 298 (1989).

In certain 26 exceptional circumstances, the district court may request the voluntary assistance of
counsel 27 pursuant to 28 U.S.C. § 1915(e)(1). *Terrell v. Brewer*, 935 F.2d 1015, 1017 (9th Cir.
1991); 28 *Wood v. Housewright*, 900 F.2d 1332, 1335-36 (9th Cir. 1990).] “When determining
whether ‘exceptional circumstances’ exist, a court must consider ‘the 2 || likelihood of success on
the merits as well as the ability of the [plaintiff] to articulate his claims 3 || pro se in light of the
complexity of the legal issues involved.’” *Palmer v. Valdez*, 560 F.3d 965, 4 | 970 (9th Cir.

2009) (quoting *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983)). The burden 5 || of
demonstrating exceptional circumstances is on the plaintiff. *Id.* Circumstances common to 6 ||
most prisoners, such as lack of legal education and limited law library access, do not establish 7 ||
exceptional circumstances that would warrant a request for voluntary assistance of counsel.

8 Plaintiff requests appointment of counsel on the grounds that he is having difficulty 9 ||
completing discovery and is unable to obtain certain documents because they are restricted for 10
|| security reasons. ECF No. 71 at 3. These are common circumstances for prisoners, and plaintiff
11 | has therefore not shown the existence of extraordinary circumstances warranting the
appointment 12 | of counsel.

Plaintiff is advised that he is free to file a motion to compel if defendants have 13 || refused to produce documents in response to his requests for production. Any such motion must 14 || include the request, defendants' response to the request, and an explanation as to why plaintiff 15 || believes defendants' response is not sufficient. 16 Accordingly, IT IS HEREBY ORDERED that: 17 1.

Plaintiff's motion for an extension of time (ECF No. 71) is GRANTED. 18 2. The parties may conduct discovery until March 23, 2026. Any motions necessary to 19 || compel discovery shall be filed by March 23, 2026. All requests for discovery pursuant to 20 || Federal Rules of Civil Procedure 31 (deposition by written question), 33 (interrogatories), 34 21 || (production of documents), or 36 (admissions) shall be served no later than January 21, 2026.

22 3. Plaintiff's request for the appointment of counsel (ECF No. 71), is DENIED. 23 | DATED: December 29, 2025 24 Chttt0n— Chane ALLISON CLAIRE 25 UNITED STATES MAGISTRATE JUDGE 26 27 28