

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Suarez v. Clark

Suarez · No. 1:22-cv-00160-JLT-SAB (PC) · Decided March 8, 2023

SUMMARY

The United States District Court for the Eastern District of California denied Jose Alfredo Suarez’s second motion for appointment of counsel in his 42 U.S.C. § 1983 action. The court found no exceptional circumstances because Suarez had not shown a likelihood of success on the merits and was able to articulate and litigate his claims, and it denied the motion without prejudice.

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	March 8, 2023
DOCKET	1:22-cv-00160-JLT-SAB (PC)
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff, proceeding pro se and in forma pauperis under 42 U.S.C. § 1983, filed a second motion requesting appointment of counsel. The court considered the motion at an early stage of the civil rights action.
STANDARD OF REVIEW	The court evaluated whether exceptional circumstances warranted requesting voluntary counsel under 28 U.S.C. § 1915(e)(1), considering the likelihood of success on the merits and the plaintiff's ability to articulate claims pro se in light of the complexity of the legal issues.
PRECEDENTIAL VALUE	unpublished district court order
PARTIES	Jose Alfredo Suarez v. Ken Clark, et al.

TOPICS

- civil rights
- prisoners rights
- civil procedure

PRACTICE AREAS

- prisoner civil rights
- civil procedure
- appointment of counsel

QUESTIONS PRESENTED

1. Whether exceptional circumstances warranted the court's request for voluntary appointment of counsel for a pro se incarcerated plaintiff under 28 U.S.C. § 1915(e)(1).
2. Whether the plaintiff's incarceration, limited legal education, limited law-library access, and asserted difficulty litigating established exceptional circumstances.

HOLDINGS

1. A court may request voluntary assistance of counsel for an indigent civil litigant only when exceptional circumstances exist, evaluated by considering both the likelihood of success on the merits and the plaintiff's ability to articulate claims pro se in light of the complexity of the legal issues. Suarez did not establish exceptional circumstances.

KEY QUOTATIONS

“However, in certain exceptional circumstances the Court may request the voluntary assistance of counsel pursuant to section 1915(e)(1).” (at 1)

“In determining whether “exceptional circumstances exist, the district court must evaluate both the likelihood of success on the merits [and] the ability of the [plaintiff] to articulate his claims pro se in light of the complexity of the legal issues involved.”” (at 1)

“In addition, circumstances common to most prisoners, such as lack of legal education and limited law library access, do not establish exceptional circumstances that would warrant a request for voluntary assistance of counsel.” (at 2)

FACTUAL BACKGROUND

Suarez is incarcerated, proceeding without counsel, and alleged that he had limited legal knowledge and law-library access and difficulty litigating while imprisoned. He asserted that he could not afford counsel, that a trial might involve conflicting testimony, and that he had made efforts to obtain counsel. The court had previously found that he stated cognizable claims, but at this early stage could not determine that he was likely to succeed on the merits.

PROCEDURAL HISTORY

Suarez filed a prisoner civil rights action and previously sought appointment of counsel. He filed a second motion for appointment of counsel on March 6, 2023. The court denied the motion without prejudice, concluding that exceptional circumstances were not present.

DISPOSITION

other

CASES CITED

- Rand v. Rowland, 113 F.3d 1520, 1525 (9th Cir. 1997)

- *Mallard v. United States District Court for the Southern District of Iowa*, 490 U.S. 296, 298 (1989)
- *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986)

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