

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

David Arkeem Evans v. Diaz, et al.

Evans v. Diaz · No. 1:22-cv-00291-KES-BAM (PC) · Decided September 8, 2025

SUMMARY

The United States District Court for the Eastern District of California denied without prejudice Plaintiff David Arkeem Evans’s motion for appointment of counsel in his 42 U.S.C. § 1983 action. The court found no exceptional circumstances, noting that the case remained pending, no trial had been set, Plaintiff was not proceeding in forma pauperis, and he appeared able to articulate his claims pro se.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Barbara A. McAuliffe
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	September 8, 2025
DOCKET	1:22-cv-00291-KES-BAM (PC)
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff, a state prisoner proceeding pro se in a 42 U.S.C. § 1983 action, moved for appointment of counsel. The court denied the motion without prejudice.
STANDARD OF REVIEW	The court evaluated the request for appointment of counsel under the exceptional-circumstances standard, 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PRECEDENTIAL VALUE	unpublished, nonprecedential district-court order
PARTIES	David Arkeem Evans v. Diaz, et al.

TOPICS

- [civil rights](#) [prisoners rights](#) [civil procedure](#)

PRACTICE AREAS

- [civil rights](#) [prisoner civil rights](#) [appointment of counsel](#)

QUESTIONS PRESENTED

1. Whether plaintiff established exceptional circumstances warranting a court request for voluntary appointment of counsel under 28 U.S.C. § 1915(e)(1).
2. Whether plaintiff's pro se status, limited legal experience, restricted access to legal research materials, and anticipated trial justified appointment of counsel.

HOLDINGS

1. A plaintiff proceeding pro se in a civil-rights action does not have a constitutional right to appointed counsel.
2. The court may not require an attorney to represent a civil litigant under 28 U.S.C. § 1915(e)(1), but it may request voluntary assistance in exceptional circumstances.
3. Plaintiff did not demonstrate exceptional circumstances warranting appointment of counsel.

KEY QUOTATIONS

“Without a reasonable method of securing and compensating counsel, the Court will seek volunteer counsel only in the most serious and exceptional cases.” (at 1)

“In determining whether “exceptional circumstances exist, a 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)

FACTUAL BACKGROUND

David Arkeem Evans is a state prisoner proceeding without counsel in a civil-rights action under 42 U.S.C. § 1983. He asserted that prison security issues and frequent closure of the inmate law library made it difficult to prepare for an anticipated lengthy trial, and he reported unsuccessful efforts to obtain volunteer representation. He also cited his lack of legal experience and limited understanding of federal practice and procedure.

PROCEDURAL HISTORY

Plaintiff filed a motion for appointment of counsel after findings and recommendations recommended denial of defendants' summary-judgment motion except as to Defendant Bradford. The findings and recommendations remained pending, no trial had been set, and the court denied appointment of counsel because plaintiff did not establish exceptional circumstances.

DISPOSITION

other

CASES CITED

- Rand v. Rowland, 113 F.3d 1520, 1525 (9th Cir. 1997)
- Rand v. Rowland, 154 F.3d 952, 954 n.1 (9th Cir. 1998)

- *Mallard v. U.S. Dist. Court for the S. Dist. of Iowa*, 490 U.S. 296, 298 (1989)

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