

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Lomeli v. Pfeiffer

Lomeli · No. 1:22-cv-00079 GSA (PC) · Decided March 20, 2025

SUMMARY

The United States District Court for the Eastern District of California denied Marcos Lomeli’s motion for appointment of counsel in his 42 U.S.C. § 1983 action. The court held that indigence and lack of income did not establish exceptional circumstances warranting voluntary appointment of counsel and directed the Clerk to update the docket to reflect Lomeli’s change of address.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Gary S. Austin
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	March 20, 2025
DOCKET	1:22-cv-00079 GSA (PC)
DISPOSITION	other
PROCEDURAL POSTURE	In a pending prisoner civil-rights action under 42 U.S.C. § 1983, the pro se plaintiff moved for appointment of counsel and notified the court of a change of address.
STANDARD OF REVIEW	The appointment of counsel is discretionary; the court evaluates whether exceptional circumstances exist by considering the plaintiff's likelihood of success on the merits and ability to articulate claims pro se in light of the complexity of the legal issues.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	Marcos Lomeli v. C. Pfeiffer, et al.

TOPICS

- civil rights
- section 1983
- prisoners rights
- civil procedure

PRACTICE AREAS

- Civil procedure
- Prisoner civil rights
- Appointment of counsel

QUESTIONS PRESENTED

1. Whether plaintiff's indigency, inability to afford an attorney, and lack of income established exceptional circumstances warranting appointment of counsel in his § 1983 action.
2. Whether the docket should be updated to reflect plaintiff's changed address and the substance of his filing.

HOLDINGS

1. A prisoner is not entitled to appointment of counsel in a § 1983 action merely because he is indigent or unable to afford an attorney; appointment may be requested only when exceptional circumstances are demonstrated.
2. The Clerk was directed to update the description of the filing and the case caption on the docket to reflect plaintiff's notice and new address.

KEY QUOTATIONS

“When determining whether “exceptional circumstances” exist, the court must consider plaintiff’s likelihood of success on the merits as well as the ability of the plaintiff to articulate his claims pro se in light of the complexity of the legal issues involved.” (at 1)

“Circumstances common to most prisoners, such as lack of legal education and limited law library access, do not establish exceptional circumstances that warrant a request for voluntary assistance of counsel.” (at 1)

FACTUAL BACKGROUND

Marcos Lomeli is a state prisoner proceeding without counsel in a civil-rights action under 42 U.S.C. § 1983. He asserted that he was indigent, unable to afford counsel, and had no monthly income. He also notified the court that he was no longer incarcerated at Kern Valley State Prison and was then at California State Prison—Los Angeles County.

PROCEDURAL HISTORY

Plaintiff, a state prisoner proceeding pro se and having paid the filing fee, filed a § 1983 action and then moved for appointment of counsel based on indigency and lack of income. The motion also notified the court that plaintiff had been transferred to another California prison. The magistrate judge denied the motion without prejudice and directed the Clerk to update the docket description and case-caption address.

DISPOSITION

other

CASES CITED

- *Mallard v. United States Dist. Court*, 490 U.S. 296, 298 (1989)
- *Terrell v. Brewer*, 935 F.2d 1015, 1017 (9th Cir. 1991)
- *Wood v. Housewright*, 900 F.2d 1332, 1335-36 (9th Cir. 1990)

- Palmer v. Valdez, 560 F.3d 965, 970 (9th Cir. 2009)

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