

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEVADA

Johnny Esquivel v. Kenneth Williams, et al.

Esquivel · No. 3:25-cv-00017-MMD-CSD · Decided January 9, 2026

OPINION

1 2 3 4 UNITED STATES DISTRICT COURT 5 DISTRICT OF NEVADA 6 JOHNNY
ESQUIVEL, Case No.: 3:25-cv-00017-MMD-CSD 7 Plaintiff, ORDER 8 v. Re: ECF No. 20 9
KENNETH WILLIAMS, et al., 10 Defendants. 11 12 Before the court is Plaintiff's Motion for
Appointment of Counsel. (ECF No. 20.) Plaintiff 13 bases his motion on the fact that (1) he
suffers from "headaches, vision disturbances, dizziness and 14 pain which impede his ability to sit
and write for lengthy periods of time," and (2) discovery has 15 been "difficult – if not impossible
due to Dr. Marks's recent termination." (Id. at 2, 3.)

16 While any pro se inmate such as Mr. Esquivel would likely benefit from services of 17 counsel,
that is not the standard this court must employ in determining whether counsel should be 18
appointed. *Wood v. Housewright*, 900 F.2d 1332, 1335-1336 (9th Cir. 1990). 19 A litigant in a
civil rights action does not have a Sixth Amendment right to appointed 20 counsel.

Storseth v. Spellman, 654 F.2d 1349, 1353 (9th Cir. 1981). The United States Supreme 21 Court
has generally stated that although Congress provided relief for violation of one's civil rights 22
under 42 U.S.C. § 1983, the right to access to the courts is only a right to bring complaints to 23 1
federal court and not a right to discover such claims or even to litigate them effectively once filed
2 with a court.

Lewis v. Casey, 518 U.S. 343, 354-355 (1996). 3 In very limited circumstances, federal courts are
empowered to request an attorney to 4 represent an indigent civil litigant. The circumstances in
which a court will grant such a request, 5 however, are exceedingly rare, and the court will grant
the request under only extraordinary 6 circumstances. *United States v. 30.64 Acres of Land*, 795
F.2d 796, 799-800 (9th Cir.

1986); 7 *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986). 8 A finding of such
exceptional or extraordinary circumstances requires that the court 9 evaluate both the likelihood of
Plaintiff's success on the merits and the pro se litigant's ability to 10 articulate his claims in light
of the complexity of the legal issues involved. Neither factor is 11 controlling; both must be
viewed together in making the finding.

Terrell v. Brewer, 935 F.2d 1015, 12 1017 (9th Cir. 1991), citing *Wilborn*, supra, 789 F.2d at 1331.
Thus far, Plaintiff has been able to 13 successfully articulate his claims. 14 In the matter of a
case's complexity, the Ninth Circuit in *Wilborn* noted that: 15 If all that was required to establish

successfully the complexity of the relevant issues was a demonstration of 16 the need for development of further facts, practically all cases would involve complex legal issues.

Thus, 17 although Wilborn may have found it difficult to articulate his claims pro se, he has neither demonstrated 18 a likelihood of success on the merits nor shown that the complexity of the issues involved was sufficient to 19 require designation of counsel.

The Ninth Circuit therefore affirmed the District Court's exercise of discretion in denying 20 the request for appointment of counsel because the Plaintiff failed to establish the case was 21 complex as to facts or law. 789 F.2d at 1331. 22 The substantive claim involved in this action is not unduly complex. Plaintiff's Complaint 23 was allowed to proceed on the Eighth Amendment medical indifference claim about delay diagnosing and treating Plaintiffs intestinal condition against Defendants Kenneth Williams, Erin Parks, D. Hultenschmidt, and Dana Marks.

(ECF No. 3 at 11.) This claim is not so complex 3] that counsel needs to be appointed to prosecute the case. 4 Similarly, with respect to the Terrell factors, Plaintiff has failed to convince the court of 5|| the likelihood of success on the merits of his claims. 6 In the exercise of the court's discretion, it DENIES Plaintiffs Motion for Appointment of 7|| Counsel (ECF No. 20).

8 IT IS SO ORDERED. 9 Dated: January 9, 2026. c Ss 10 Craig S. Denney 11 United States Magistrate Judge 12 13 14 15 16 17 18 19 20 21 22 23