

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Alfred Arista v. Michael Feleppa

Arista · No. 1:22-cv-00240 KES GSA (PC) · Decided March 17, 2025

SUMMARY

The United States District Court for the Eastern District of California denied Plaintiff Alfred Arista’s motion for appointment of counsel in his 42 U.S.C. § 1983 action. The court held that Plaintiff had not demonstrated exceptional circumstances, considering his ability to articulate his claims and litigate the case pro se.

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 17, 2025
DOCKET	1:22-cv-00240 KES GSA (PC)
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff, a state prisoner proceeding pro se and in forma pauperis in a 42 U.S.C. § 1983 action, moved for appointment of counsel. The court denied the motion.
STANDARD OF REVIEW	The appointment of counsel is discretionary and requires the plaintiff to demonstrate exceptional circumstances by showing both a likelihood of success on the merits and an inability to articulate the claims pro se in light of the complexity of the legal issues.
PRECEDENTIAL VALUE	Unpublished district-court order; nonprecedential
PARTIES	Alfred Arista v. Michael Feleppa

TOPICS

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

PRACTICE AREAS

- civil rights
- prisoner litigation
- appointment of counsel

QUESTIONS PRESENTED

1. Whether a pro se state prisoner demonstrated exceptional circumstances warranting a request for voluntary appointment of counsel under 28 U.S.C. § 1915(e)(1).
2. Whether lack of legal education, limited law-library access, and the plaintiff's stated difficulty litigating the action established exceptional circumstances.

HOLDINGS

1. A district court may request an attorney to voluntarily represent an indigent prisoner in a § 1983 action only when exceptional circumstances exist, assessed by considering the plaintiff's likelihood of success on the merits and ability to articulate the claims pro se in light of the complexity of the legal issues. Arista failed to demonstrate exceptional circumstances.
2. District courts lack authority to require counsel to represent indigent prisoners in § 1983 cases.

KEY QUOTATIONS

“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.” (1)

“For these reasons, having considered the factors under Palmer, the Court finds that Plaintiff has failed to meet his burden of demonstrating exceptional circumstances warranting the appointment of counsel at this time.” (2)

FACTUAL BACKGROUND

Arista, a state prisoner proceeding without counsel, asserted that he lacked knowledge of civil law, that the Office of the Attorney General was taking advantage of and misleading him, and that limited prison law-library access made litigation difficult. He had nevertheless filed a complaint containing viable claims, obtained service on the defendant, filed timely responses, and submitted multiple additional filings. He sought counsel so that he would not mishandle the case.

PROCEDURAL HISTORY

Arista filed a prisoner civil-rights action in 2022. The complaint stated viable claims that were served on Feleppa, and Arista filed timely responses and other submissions during the litigation. Arista then moved for appointment of counsel, which the court denied after applying the exceptional-circumstances standard.

DISPOSITION

other

CASES CITED

- *Mallard v. United States District 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)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 ALFRED ARISTA, No. 1:22-cv-00240 KES GSA (PC) 12 Plaintiff, ORDER
DENYING MOTION FOR THE APPOINTMENT OF COUNSEL 13 v. (ECF No. 51) 14
MICHAEL FELEPPA, 15 Defendant. 16 17 Plaintiff, a state prisoner proceeding pro se and in
forma pauperis, has filed this civil 18 rights action seeking relief under 42 U.S.C. § 1983.

The matter was referred to a United States 19 Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)
(B) and Local Rule 302. 20 Plaintiff has filed a motion for the appointment of counsel. ECF No.
51. For the reasons 21 stated below, the motion will be denied. 22 I. MOTION FOR THE
APPOINTMENT OF COUNSEL 23 In support of Plaintiff's motion for the appointment of
counsel, Plaintiff states that he 24 lacks knowledge of civil law, and that the Office of the Attorney
General is taking advantage of 25 his lack of legal knowledge and misguiding him.

See ECF No. 51 at 2. Plaintiff also states that it 26 has been difficult to get into the prison law
library because it is only open two days a week. Id. at 27 2-3. In sum, Plaintiff wants counsel to be
appointed "so that [he doesn't] mess this case up." Id. 28 at 3 (brackets added). 1 II.
DISCUSSION 2 A. Applicable Law 3 District courts lack authority to require counsel to represent
indigent prisoners in section 4 1983 cases.

Mallard v. United States Dist. Court, 490 U.S. 296, 298 (1989). In exceptional 5 circumstances,
the court may request an attorney to voluntarily represent such a plaintiff. See 28 6 U.S.C. §
1915(e)(1). Terrell v. Brewer, 935 F.2d 1015, 1017 (9th Cir. 1991); Wood v. 7 Housewright, 900
F.2d 1332, 1335-36 (9th Cir. 1990). When determining whether "exceptional 8 circumstances"
exist, the court must consider plaintiff's likelihood of success on the merits as 9 well as the ability
of the plaintiff to articulate his claims pro se in light of the complexity of the 10 legal issues
involved.

Palmer v. Valdez, 560 F.3d 965, 970 (9th Cir. 2009) (district court did not 11 abuse discretion in
declining to appoint counsel). The burden of demonstrating exceptional 12 circumstances is on the
plaintiff. Id. Circumstances common to most prisoners, such as lack of 13 legal education and
limited law library access, do not establish exceptional circumstances that 14 warrant a request for
voluntary assistance of counsel.

15 B. Analysis 16 Plaintiff's motion will be denied. The fact that Plaintiff has been able to file a
complaint 17 with viable claims, which have been served on Defendant, indicates that there is a
possibility that 18 Plaintiff will be successful litigating this case on its merits.

In addition, since Plaintiff filed this 19 case in 2022, he has successfully litigated it filing timely
responses when ordered by the Court, as 20 well as multiple independent unsolicited filings, many

of which the Court recently addressed. 21 See, e.g., ECF Nos. 37-38, 42-43, 45-47. 22 For these reasons, having considered the factors under Palmer, the Court finds that 23 Plaintiff has failed to meet his burden of demonstrating exceptional circumstances warranting the 24 appointment of counsel at this time.

25 Accordingly, IT IS HEREBY ORDERED that Plaintiff's request for the appointment of 26 counsel (ECF No. 51) is DENIED. 27 28 1 IT IS SO ORDERED. 2 3 Dated: March 16, 2025 /s/ Gary S. Austin UNITED STATES MAGISTRATE JUDGE 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28