

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Felder v. Brewer

Felder · No. 2:22-cv-01702-JDP (PC) · Decided March 8, 2023

SUMMARY

The United States District Court for the Eastern District of California denied without prejudice a state inmate’s motion to appoint counsel in his 42 U.S.C. § 1983 action. The court found no exceptional circumstances because the claims were not unusually complex and the plaintiff had not shown a likelihood of success on the merits. The court stated that it could revisit the issue if the interests of justice later required it.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Jeremy D. Peterson
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	March 8, 2023
DOCKET	2:22-cv-01702-JDP (PC)
DISPOSITION	other
PROCEDURAL POSTURE	Pro se state prisoner plaintiff in a 42 U.S.C. § 1983 action moved for appointment of counsel.
PRECEDENTIAL VALUE	unpublished, nonprecedential district court order
PARTIES	Bobby Dewayne Felder v. M. Brewer, et al.

TOPICS

civil rights section 1983 civil procedure

PRACTICE AREAS

civil rights prisoner civil rights appointment of counsel

QUESTIONS PRESENTED

1. Whether exceptional circumstances justified requesting volunteer counsel for a pro se prisoner in a 42 U.S.C. § 1983 action.

HOLDINGS

1. Appointment of counsel was not warranted because the plaintiff failed to establish exceptional circumstances, including a sufficient likelihood of success on the merits and an inability to articulate his claims pro se in light of the complexity of the legal issues.

KEY QUOTATIONS

“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.” (1-2)

FACTUAL BACKGROUND

Bobby Dewayne Felder is a state inmate proceeding without counsel in a civil rights action under 42 U.S.C. § 1983. He requested appointed counsel, citing his lack of prior litigation experience and low reading level. The court found that the allegations were not exceptionally complicated and that plaintiff had not demonstrated a likelihood of success on the merits.

PROCEDURAL HISTORY

Plaintiff filed a civil rights action and moved for appointment of counsel. The district court denied the motion without prejudice, allowing plaintiff to renew it later if circumstances justified appointment.

DISPOSITION

other

CASES CITED

- Rand v. Rowland, 113 F.3d 1520, 1525 (9th Cir. 1997)
- Mallard v. U.S. Dist. Ct. for the S. Dist. of Iowa, 490 U.S. 296, 298 (1989)