

**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

OPINION

(PC) Felder v. Brewer

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 11 BOBBY DEWAYNE FELDER, Case No. 2:22-cv-01702-JDP (PC) 12 Plaintiff, ORDER
DENYING PLAINTIFF’S

MOTION TO APPOINT COUNSEL

13 v. ECF No. 18 14 M. BREWER, et al., 15 Defendants. 16 17 18 Plaintiff is a state inmate
proceeding without counsel in this civil rights action brought 19 under 42 U.S.C. § 1983. He has
filed a motion asking that he be appointed counsel. ECF No. 18. 20 Plaintiff does not have a
constitutional right to appointed counsel in this action, see *Rand 21 v. Rowland*, 113 F.3d 1520,
1525 (9th Cir. 1997), and the court lacks the authority to require an 22 attorney to represent
plaintiff. See *Mallard v. U.S. Dist. Ct. for the S. Dist. of Iowa*, 490 U.S. 296, 23 298 (1989). The
court can request the voluntary assistance of counsel. See 28 U.S.C. 24 § 1915(e)(1) (“The court
may request an attorney to represent any person unable to afford 25 counsel”); *Rand*, 113 F.3d at
1525. But without a means to compensate counsel, the court will 26 seek volunteer counsel only
in exceptional circumstances. In determining whether such 27 circumstances exist, “the district
court must evaluate both the likelihood of success on the merits 28 1 | [and] the ability of the
[plaintiff] to articulate his claims pro se in light of the complexity of the 2 | legal issues involved.”
Rand, 113 F.3d at 1525 (internal quotation marks and citations omitted). 3 Plaintiff asks that
counsel be appointed because he has never filed a lawsuit and he has a 4 | low reading level. ECF
No. 18 at 1. The court cannot conclude that exceptional circumstances 5 || requiring the
appointment of counsel are present here. The allegations in the complaint are not 6 | exceptionally
complicated, and plaintiff has not demonstrated that he is likely to succeed on the 7 | merits. For
these reasons, plaintiff’s motion to appoint counsel, ECF No. 18, is denied without 8 || prejudice. 9
The court may revisit this issue at a later stage of the proceedings if the interests of justice 10 | so
require. If plaintiff later renews his request for counsel, he should provide a detailed 11 |
explanation of the circumstances that he believes justify appointment of counsel in this case. 12
Accordingly, it is hereby ORDERED that plaintiff’s motion for appointment of counsel, 13 | ECF

No. 18, is denied without prejudice. 14 1s IT IS SO ORDERED. 16 | q Sty — Dated: _ March 7,
2023 q————

17 JEREMY D. PETERSON

18 UNITED STATES MAGISTRATE JUDGE

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