

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Nathanael James Carter, Jr. v. D. Murphy, et al.

No. 2:24-cv-0165 CKD P · No. No. 2:24-cv-0165 CKD P · Decided April 30, 2025

SUMMARY

The United States District Court for the Eastern District of California denied without prejudice a state prisoner’s motion for appointment of counsel in a 42 U.S.C. § 1983 action. Applying the exceptional-circumstances standard, the court found that the plaintiff had not demonstrated a sufficient likelihood of success or inability to articulate his claims pro se.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Carolyn K. Delaney
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	April 30, 2025
DOCKET	No. 2:24-cv-0165 CKD P
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff, a state prisoner proceeding pro se under 42 U.S.C. § 1983, moved for appointment of counsel.
STANDARD OF REVIEW	The court considered whether exceptional circumstances warranted requesting voluntary representation, based on the plaintiff's likelihood of success on the merits and ability to articulate his claims in light of the complexity of the legal issues.
PRECEDENTIAL VALUE	unpublished, nonprecedential district-court order
PARTIES	Nathanael James Carter, Jr. v. D. Murphy, et al.

TOPICS

- prisoners rights
- section 1983
- civil procedure

PRACTICE AREAS

- civil rights
- prisoner civil rights
- appointment of counsel

QUESTIONS PRESENTED

1. Whether the plaintiff demonstrated exceptional circumstances warranting the court's request for voluntary appointment of counsel in his § 1983 action.

HOLDINGS

1. A district court may request an attorney to voluntarily represent an indigent prisoner in a § 1983 action only when exceptional circumstances exist, evaluated by considering the plaintiff's likelihood of success on the merits and ability to articulate claims in light of the complexity of the legal issues. Plaintiff failed to meet his burden of demonstrating exceptional circumstances, so the motion was denied without prejudice.

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

Plaintiff is a state prisoner proceeding pro se in a civil-rights action under 42 U.S.C. § 1983. He requested that the court appoint counsel. The court found that he had not demonstrated exceptional circumstances warranting appointment of counsel at that time.

PROCEDURAL HISTORY

The action was pending in the Eastern District of California when plaintiff moved for appointment of counsel. The court considered the motion under the exceptional-circumstances standard and denied it without prejudice.

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)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 NATHANAEL JAMES CARTER, JR., No. 2:24-cv-0165 CKD P 12

Plaintiff, 13 v. ORDER 14 D. MURPHY, et al., 15 Defendants. 16 17 Plaintiff is a state prisoner proceeding pro se in an action brought under 42 U.S.C. § 1983. 18 Plaintiff requests that the court appoint counsel.

District courts lack authority to require counsel 19 to represent indigent prisoners in section 1983 cases. *Mallard v. United States Dist. Court*, 490 20 U.S. 296, 298 (1989). In exceptional circumstances, the court may request an attorney to 21 voluntarily represent such a plaintiff. See 28 U.S.C. § 1915(e)(1); *Terrell v. Brewer*, 935 F.2d 22 1015, 1017 (9th Cir.

1991); *Wood v. Housewright*, 900 F.2d 1332, 1335-36 (9th Cir. 1990). 23 When determining whether “exceptional circumstances” exist, the court must consider plaintiff’s 24 likelihood of success on the merits as well as the ability of the plaintiff to articulate his claims pro 25 se in light of the complexity of the legal issues involved. *Palmer v. Valdez*, 560 F.3d 965, 970 26 (9th Cir.

2009) (district court did not abuse discretion in declining to appoint counsel). The 27 burden of demonstrating exceptional circumstances is on the plaintiff. *Id.* Circumstances 28 common to most prisoners, such as lack of legal education and limited law library access, do not 1 | establish exceptional circumstances that warrant a request for voluntary assistance of counsel.

2 Having considered the factors under *Palmer*, the court finds that plaintiff has failed to 3 || meet his burden of demonstrating exceptional circumstances warranting the appointment of 4 | counsel at this time. 5 Accordingly, IT IS HEREBY ORDERED that plaintiff's motion for the appointment of 6 || counsel (ECF No. 34) is DENIED without prejudice. 7 | Dated: April 30, 2025 / hice MN fe Ho.

AG CAROLYN K DELANEY? 9 UNITED STATES MAGISTRATE JUDGE 10 1] 12 | any 3
cart0165.31.new 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28