

**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.

OPINION

(PC) Carter v. Murphy

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

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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 / hie MN fe Ho.
AG

CAROLYN K DELANEY?

9 UNITED STATES MAGISTRATE JUDGE

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