

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Gene Edward Evans v. Unknown

Evans · No. 1:25-cv-00235-CDB (HC) · Decided March 12, 2025

SUMMARY

The United States District Court for the Eastern District of California denied without prejudice Gene Edward Evans’s motion for appointment of counsel in his 28 U.S.C. § 2254 habeas corpus proceeding. The court held that Petitioner had not shown that appointment of counsel was necessary, warranted by exceptional circumstances, or required to prevent due process violations at this early stage.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	March 12, 2025
DOCKET	1:25-cv-00235-CDB (HC)
DISPOSITION	other
PROCEDURAL POSTURE	Petitioner, a state prisoner proceeding pro se under 28 U.S.C. § 2254, moved for appointment of counsel in his federal habeas proceeding.
STANDARD OF REVIEW	Appointment of counsel in a federal habeas proceeding is discretionary under the Criminal Justice Act when the interests of justice so require; counsel is required under the governing habeas rules in specified circumstances involving authorized discovery or a warranted evidentiary hearing.
PRECEDENTIAL VALUE	unpublished district court order
PARTIES	Gene Edward Evans v. Unknown

TOPICS

- federal habeas corpus
- post-conviction relief
- due process
- civil procedure

PRACTICE AREAS

- federal habeas corpus
- post-conviction relief
- appointment of counsel

QUESTIONS PRESENTED

1. Whether the court should appoint counsel for a financially unable state prisoner in a federal habeas proceeding under 28 U.S.C. § 2254.
2. Whether the early stage of the proceeding, asserted legal complexity, and petitioner's lack of funds demonstrated that appointment of counsel was necessary or warranted.

HOLDINGS

1. A habeas petitioner has no constitutional right to appointed counsel in a federal habeas proceeding, and appointment under the Criminal Justice Act is warranted only when the interests of justice so require.
2. Appointment of counsel was not necessary or warranted at the early stage of the proceeding because petitioner had not demonstrated exceptional circumstances, a need to prevent a due process violation, authorized discovery requiring counsel, or a warranted evidentiary hearing.

KEY QUOTATIONS

“There is no constitutional right to counsel in federal habeas proceedings.” (at 1)

“Accordingly, it is HEREBY ORDERED that Petitioner’s motion for appointment of counsel (Doc. 10) is DENIED WITHOUT PREJUDICE.” (at 2)

FACTUAL BACKGROUND

Gene Edward Evans is a state prisoner proceeding pro se in a federal habeas action under 28 U.S.C. § 2254. He sought appointment of counsel, stating that he lacked the financial means to retain counsel and asserting that the case involved a complex legal issue. The court found that the case was at an early stage, that the issues were not unusual for habeas proceedings, and that Evans had not shown exceptional circumstances warranting appointed counsel.

PROCEDURAL HISTORY

Evans filed a petition for writ of habeas corpus under 28 U.S.C. § 2254 and then moved for appointment of counsel, asserting that he lacked the financial means to retain counsel. The district court denied the motion without prejudice at the early stage of the proceedings.

DISPOSITION

other

CASES CITED

- *Coleman v. Thompson*, 501 U.S. 722, 752 (1991)
- *Bonin v. Vasquez*, 999 F.2d 425, 429 (9th Cir. 1993)
- *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir. 1986)

OPINION

(HC) Evans v. Unknown

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 EASTERN DISTRICT OF CALIFORNIA

10 11 GENE EDWARD EVANS, Case No. 1:25-cv-00235-CDB (HC) 12 Petitioner, ORDER
DENYING MOTION FOR

APPOINTMENT OF COUNSEL

13 v. (Doc. 10)

14 UNKNOWN,

15 Respondent. 16

17 Petitioner Gene Edward Evans (“Petitioner”), a state prisoner, proceeds pro se with a 18
petition for writ of habeas corpus filed under 28 U.S.C. § 2254. (Doc. 1). Pending before the 19
Court is Petitioner’s motion that the Court appoint counsel to represent him. (Doc. 10). In 20
support of his motion, Petitioner states that he lacks the financial means to retain counsel. Id. at 21
1. 22 There is no constitutional right to counsel in federal habeas proceedings. *Coleman v. 23*
Thompson, 501 U.S. 722, 752 (1991); *Bonin v. Vasquez*, 999 F.2d 425, 429 (9th Cir. 1993). 24
However, the Criminal Justice Act 18 U.S.C. § 3006A, authorizes the Court to appoint counsel 25
for a financially eligible person who seeks relief under § 2254 when the “court determines that 26
the interest of justice so require.” Id. at § 3006A(a)(2)(B); see *Chaney v. Lewis*, 801 F.2d 1191, 27
1196 (9th Cir. 1986) (“Indigent state prisoners applying for habeas corpus relief are not entitled to
een ee eee eee nnn I EE EO I IIS 1 || necessary to prevent due process violations.”). Moreover, the
Rules Governing Section 2254 2 || Cases in the United States District Courts require the Court to
appoint counsel: (1) where 3 || discovery is authorized on a showing of good cause and counsel is
deemed “necessary” to 4 || facilitate effective discovery; or (2) when the court has determined that
an evidentiary hearing is 5 || warranted for the disposition of a petition. See Habeas Rules 6(a) and
8(c). 6 The Court finds Petitioner has not demonstrated that appointment of counsel is necessary 7
|| or warranted at this early stage of proceedings. Although Petitioner asserts that this case involves
8 || a complex legal issue, the Court notes that the types of trial court rulings and related issues 9 |
implicated in this case are not unusual in habeas proceedings. Furthermore, Petitioner has not 10 ||
shown any exceptional circumstances warrant the appointment of counsel at this stage. 11 ||
Petitioner’s proffered difficulties arising from his lack of funds are shared with many other 12 ||
habeas petitioners. Therefore, at this stage, the circumstances of this case do not indicate that 13 ||
appointed counsel is necessary or that failure to appoint counsel necessarily would implicate due
14 || process concerns. 15 | Conclusion and Order 16 Accordingly, it is HEREBY ORDERED that
Petitioner’s motion for appointment of 17 || counsel (Doc. 10) is DENIED WITHOUT
PREJUDICE. 18 | IT IS SO ORDERED. | Dated: _March 12, 2025 | hr

20 UNITED STATES MAGISTRATE JUDGE

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