

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Kevin Hagan v. Raul Recarey, et al.

Hagan · No. 1:22-cv-00562-JLT-EPG (PC) · Decided October 2, 2025

SUMMARY

The United States District Court for the Eastern District of California denied Kevin Hagan’s renewed motion for appointment of pro bono counsel in his 42 U.S.C. § 1983 action. The court found that Hagan had not alleged changed circumstances warranting reconsideration and held that exceptional circumstances for voluntary appointment of counsel were not shown. The motion was denied without prejudice.

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	October 2, 2025
DOCKET	1:22-cv-00562-JLT-EPG (PC)
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff, a state prisoner proceeding pro se in a 42 U.S.C. § 1983 action, filed a renewed motion for appointment of pro bono counsel.
STANDARD OF REVIEW	Appointment of counsel in a § 1983 action is discretionary and depends on whether exceptional circumstances exist, evaluated by considering the likelihood of success on the merits and the plaintiff's ability to articulate claims pro se in light of the complexity of the legal issues.
PRECEDENTIAL VALUE	unpublished
PARTIES	Kevin Hagan v. Raul Recarey, et al.

TOPICS

- prisoners rights
- civil rights
- section 1983
- civil procedure

PRACTICE AREAS

- civil rights
- prisoner litigation
- appointment of counsel

QUESTIONS PRESENTED

1. Whether the plaintiff was entitled to appointment of counsel in his § 1983 civil rights action.
2. Whether the renewed motion established changed circumstances or exceptional circumstances warranting appointment of counsel or reconsideration of the prior denial.

HOLDINGS

1. A plaintiff proceeding under 42 U.S.C. § 1983 does not have a constitutional right to appointed counsel.
2. The court cannot require an attorney to represent the plaintiff under 28 U.S.C. § 1915(e)(1), although it may request voluntary assistance in exceptional circumstances.
3. Exceptional circumstances were not shown because the plaintiff identified no changed circumstances and did not establish grounds warranting reconsideration of the prior denials.

KEY QUOTATIONS

“A finding of exceptional circumstances requires an evaluation of both “the likelihood of success on the merits [and] the ability of the petitioner to articulate his claims pro se in light of the complexity of the legal issues involved.”” (at 1)

“There is no constitutional right to appointed counsel in a § 1983 action.” (at 2)

FACTUAL BACKGROUND

Kevin Hagan is a state prisoner proceeding pro se in a civil rights action under 42 U.S.C. § 1983. He sought appointment of pro bono counsel through a renewed motion. The motion did not allege changed circumstances or other reasons to reconsider the court's prior orders denying appointment of counsel.

PROCEDURAL HISTORY

Hagan previously filed four motions for appointment of counsel, including a motion filed on December 19, 2024, which the court denied on January 2, 2025. He filed the present renewed motion without identifying changed circumstances or grounds warranting reconsideration of the prior denial. The district court denied the renewed motion without prejudice.

DISPOSITION

other

CASES CITED

- Rand v. Rowland, 113 F.3d 1520, 1525 (9th Cir. 1997), withdrawn in part on other grounds, 154 F.3d 952 (9th Cir. 1998)
- Mallard v. United States District Court for the Southern District of Iowa, 490 U.S. 296, 298 (1989)
- Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th Cir. 1986)

OPINION

(PC)Hagan

PER CURIAM.

1 2 3 4 5 6

7 UNITED STATES DISTRICT COURT

8 EASTERN DISTRICT OF CALIFORNIA

9 10 KEVIN HAGAN, Case No. 1:22-cv-00562-JLT-EPG (PC) 11 Plaintiff, ORDER DENYING
PLAINTIFF'S

RENEWED MOTION FOR APPOINTMENT

12 v. OF COUNSEL

13 RAUL RECAREY, et al., 14 Defendant. (ECF No. 94) 15 Plaintiff Kevin Hagan is a state
prisoner proceeding pro se in this civil rights action 16 filed pursuant to 42 U.S.C. § 1983. Before
the Court is Plaintiff's renewed motion for the 17 appointment of pro bono counsel. (ECF No. 94).

18 On December 19, 2024, Plaintiff filed his fourth motion for appointment of counsel. 19 (ECF
No. 70). The Court denied the renewed motion on January 2, 2025. (ECF No. 71). 20 Plaintiff's
current motion does not set forth any changed circumstances or reasons to reconsider 21 that order.

22 As the Court previously informed Plaintiff, he does not have a constitutional right to 23
appointed counsel in this action, *Rand v. Rowland*, 113 F.3d 1520, 1525 (9th Cir. 1997), 24
withdrawn in part on other grounds, 154 F.3d 952 (9th Cir. 1998), and the Court cannot require 25
an attorney to represent Plaintiff pursuant to 28 U.S.C. § 1915(e)(1). *Mallard v. United States* 26
District Court for the Southern District of Iowa, 490 U.S. 296, 298 (1989). However, in certain 27

28 1 || exceptional circumstances the Court may request the voluntary assistance of counsel
pursuant 2 || to section 1915(e)(1). *Rand*, 113 F.3d at 1525. 3 Without a reasonable method of
securing and compensating counsel, the Court will seek 4 || volunteer counsel only in the most
serious and exceptional cases. A finding of exceptional 5 || circumstances requires an evaluation of
both "the likelihood of success on the merits [and] the 6 || ability of the petitioner to articulate his
claims pro se in light of the complexity of the legal 7 issues involved." *Wilborn v. Escalderon*, 789
F.2d 1328, 1331 (9th Cir. 1986). 8 Plaintiffs current motion argues that he is entitled to counsel,
yet Plaintiff has not 9 || alleged any change in circumstances that warrant reconsideration of the
prior four orders 10 || denying Plaintiff's motions for appointment of counsel. Again, the Court
notes, there is no right 11 || to counsel in this case brought pursuant to 42 U.S.C. § 1983. See
Rand, 113 F.3d at 1525 12 || ("There is no constitutional right to appointed counsel in a § 1983
action.") (citation omitted). 13 For the foregoing reasons, IT IS ORDERED that Plaintiff's
renewed motion for 14 || appointment of counsel (ECF No. 94) is DENIED without prejudice. 15
16 IS SO ORDERED. " | Dated: _ October 2, 2025 [Jee hey

18 UNITED STATES MAGISTRATE JUDGE

19 20 21 22 23 24 25 26 27 28

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