

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF  
CALIFORNIA

Downs v. Jiminez

Downs · No. 2:22-cv-1021 TLN AC P · Decided April 24, 2025

SUMMARY

The United States District Court for the Eastern District of California denies plaintiff Ivory Lewis Downs, Jr.'s request for appointment of counsel in his § 1983 action. The court concludes that the plaintiff's concerns about mail delivery and receipt of objections do not establish exceptional circumstances warranting voluntary appointment of counsel.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                            |
|-----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States District Court for the Eastern District of California                                                                                                                                                                                                                                        |
| WRITING FOR THE COURT | Allison Claire                                                                                                                                                                                                                                                                                             |
| JURISDICTION          | United States District Court for the Eastern District of California                                                                                                                                                                                                                                        |
| DECIDED               | April 24, 2025                                                                                                                                                                                                                                                                                             |
| DOCKET                | 2:22-cv-1021 TLN AC P                                                                                                                                                                                                                                                                                      |
| DISPOSITION           | other                                                                                                                                                                                                                                                                                                      |
| PROCEDURAL POSTURE    | Plaintiff's letter requesting appointment of counsel was construed as a motion for appointment of counsel in a prisoner civil-rights action under 42 U.S.C. § 1983.                                                                                                                                        |
| STANDARD OF REVIEW    | Appointment of counsel for an indigent prisoner in a § 1983 action is discretionary and requires a showing of exceptional circumstances, evaluated by considering the likelihood of success on the merits and the plaintiff's ability to articulate claims in light of the complexity of the legal issues. |
| PRECEDENTIAL VALUE    | Unknown                                                                                                                                                                                                                                                                                                    |
| PARTIES               | Ivory Lewis Downs, Jr. v. M. Jiminez, et al.                                                                                                                                                                                                                                                               |

TOPICS

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

PRACTICE AREAS

civil rights

prisoner civil rights

appointment of counsel

## QUESTIONS PRESENTED

1. Whether plaintiff established exceptional circumstances warranting the court's request for voluntary appointment of counsel under 28 U.S.C. § 1915(e)(1).

## HOLDINGS

1. Plaintiff failed to demonstrate exceptional circumstances warranting a request for voluntary assistance of counsel, so his request for appointment of counsel was denied.
2. The district court lacks authority to require counsel to represent an indigent prisoner in a § 1983 case, but may request voluntary assistance in exceptional circumstances.

## KEY QUOTATIONS

““When determining whether ‘exceptional circumstances’ exist, a court must consider ‘the 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.’” (1)

“Accordingly, IT IS HEREBY ORDERED that plaintiffs request for the appointment of counsel (ECF No. 45) is DENIED.” (2)

## FACTUAL BACKGROUND

Plaintiff asserted that he had filed objections to March 10, 2023 findings and recommendations, although the order adopting those findings stated that he had not. He attributed the problem to the prison mail room and continuing mail issues, and based his request for counsel primarily on the belief that his objections had not reached the court. The court received the objections on April 1, 2025.

## PROCEDURAL HISTORY

The court had previously adopted findings and recommendations stating that plaintiff had not filed objections. Plaintiff then submitted a letter asserting that he had filed objections and that mail-room problems interfered with his mail, and requested appointment of counsel. The court subsequently received plaintiff's objections on April 1, 2025, and denied the request for counsel.

## 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)

- Weygandt v. Look, 718 F.2d 952, 954 (9th Cir. 1983)

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