

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA

Paleveda v. Alameda County

No. 24-cv-08716-RMI (N.D. Cal. May 21, 2025) · No. 24-cv-08716-RMI · Decided May 21, 2025

SUMMARY

The United States District Court for the Northern District of California denied without prejudice the pro se plaintiff’s motion for appointment of counsel because there was no constitutional right to counsel, the claims showed little likelihood of success, and the issues were not complex. The court granted the plaintiff’s request for an extension of time and ordered that a second amended complaint be filed by June 20, 2025.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	Robert M. Illman
JURISDICTION	United States District Court for the Northern District of California
DECIDED	May 21, 2025
DOCKET	24-cv-08716-RMI
DISPOSITION	other
PROCEDURAL POSTURE	A pro se detainee brought a civil-rights action under 42 U.S.C. § 1983. After the amended complaint was dismissed with leave to amend, Plaintiff moved for an extension of time and appointment of counsel.
PRECEDENTIAL VALUE	unpublished and nonprecedential district-court order
PARTIES	Nicholas Ewing Paleveda v. Alameda County, et al.

TOPICS

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

PRACTICE AREAS

- civil procedure
- civil rights
- prisoner civil rights

QUESTIONS PRESENTED

- Whether the court should appoint counsel for an indigent pro se detainee in a civil-rights action.

2. Whether good cause existed to extend the deadline for filing a second amended complaint.

HOLDINGS

1. Appointment of counsel was not warranted because Plaintiff had shown little likelihood of success on the merits, had adequately presented his claims pro se, and faced issues that were not legally complex.
2. The request for an extension of time to file a second amended complaint was granted for good cause, and the complaint was required to be filed by June 20, 2025.

KEY QUOTATIONS

“The Ninth Circuit has held that a district court may ask counsel to represent an indigent litigant only in “exceptional circumstances,” the determination of which requires an evaluation of (1) the likelihood of success on the merits and (2) the ability of the plaintiff to articulate his claims pro se in light of the complexity of the legal issues involved.” (1)

“The motion to appoint counsel (dkt. 34) is therefore DENIED without prejudice.” (2)

“For good cause shown, it is hereby ORDERED that Plaintiffs request for an extension (dkt. 33) to file a second amended complaint is GRANTED, and the second amended complaint shall be filed by June 20, 2025.” (2)

FACTUAL BACKGROUND

Nicholas Ewing Paleveda was a detainee proceeding pro se and in forma pauperis in a civil-rights action against Alameda County and other defendants. The court had previously determined that most of his allegations failed to state a claim and had dismissed the amended complaint with leave to file a second amended complaint. Plaintiff asserted that he needed additional time and appointed counsel.

PROCEDURAL HISTORY

Plaintiff filed a pro se § 1983 complaint, and the court dismissed his amended complaint with leave to file a second amended complaint. Plaintiff then sought an extension of time and appointment of counsel. The court denied appointment of counsel without prejudice, granted the extension, and ordered Plaintiff to file a new second amended complaint by June 20, 2025.

DISPOSITION

other

CASES CITED

- *Lassiter v. Department of Social Services*, 452 U.S. 18, 25 (1981)
- *Mallard v. United States District Court*, 490 U.S. 296, 310 (1989)
- *Terrell v. Brewer*, 935 F.2d 1015, 1017 (9th Cir. 1991)

OPINION

Paleveda v. Alameda County

PER CURIAM.

1 2 3

4 UNITED STATES DISTRICT COURT

5 NORTHERN DISTRICT OF CALIFORNIA

6 7 NICHOLAS EWING PALEVEDA, Case No. 24-cv-08716-RMI 8 Plaintiff,

ORDER

v. 9 Re: Dkt. Nos. 33, 34 10 ALAMEDA COUNTY, et al., Defendants. 11 12 13 Plaintiff, a
detainee, filed a pro se civil rights complaint under 42 U.S.C. § 1983. The 14 amended complaint
was dismissed with leave for Plaintiff to file a second amended complaint. 15 (Dkt. 32). Plaintiff
submitted filings seeking an extension of time and for the court to appoint 16 counsel. (Dkts. 33,
34). 17 There is no constitutional right to counsel in a civil case. *Lassiter v. Dep't of Social* 18
Services, 452 U.S. 18, 25 (1981). District courts may “request” that counsel represent a litigant 19
who is proceeding in forma pauperis, as Plaintiff is here. See 28 U.S.C. § 1915(e)(1). However, 20
that does not give the courts the power to make “coercive appointments of counsel.” *Mallard v.* 21
U.S. Dist. Court, 490 U.S. 296, 310 (1989). 22 The Ninth Circuit has held that a district court may
ask counsel to represent an indigent 23 litigant only in “exceptional circumstances,” the
determination of which requires an evaluation of 24 (1) the likelihood of success on the merits and
(2) the ability of the plaintiff to articulate his claims 25 pro se in light of the complexity of the
legal issues involved. *Terrell v. Brewer*, 935 F.2d 1015, 26 1017 (9th Cir. 1991). As described in
the prior screening order, the majority of Plaintiff’s 27 allegations fail to state a claim and there is
little likelihood for success on the merits. While 1 likelihood of success on this claim. Further,
Plaintiff has presented his claims adequately and the 2 || issues are not complex. The motion to
appoint counsel (dkt. 34) is therefore DENIED without 3 prejudice. 4 For good cause shown, it is
hereby ORDERED that Plaintiffs request for an extension 5 (dkt. 33) to file a second amended
complaint is GRANTED, and the second amended complaint 6 shall be filed by June 20, 2025.
The Clerk is directed to send Plaintiff a copy of the amended 7 || complaint (dkt. 20) to review.
Plaintiff must file a new second amended complaint. He may not 8 simply write in the margins of
the amended complaint sent by the court. If Plaintiff seeks 9 additional access to the law library, he
must request it at his institution and he may show officials 10 || this order that contains a deadline.
11 IT IS SO ORDERED. e 12 Dated: May 21, 2025

ROBERT M. ILLMAN

IS United States Magistrate Judge 16 = 17 Z 18 19 20 21 22 23 24 25 26 27 28