

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Anthony A. Sanchez v. J. Nunez-Ruiz, et al.

Sanchez v. Nunez-Ruiz · No. 1:21-cv-01770-ADA-EPG (PC) · Decided March 14, 2023

SUMMARY

The United States District Court for the Eastern District of California denied, without prejudice, a state prisoner’s motion for appointment of pro bono counsel in a 42 U.S.C. § 1983 action. The court found that Plaintiff had not shown a likelihood of success on the merits and appeared able to articulate his claims, while allowing him to renew the request at a later stage.

OPINION

(PC) Sanchez v. Muro

PER CURIAM.

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UNITED STATES DISTRICT COURT

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EASTERN DISTRICT OF CALIFORNIA

10 11 ANTHONY A. SANCHEZ, Case No. 1:21-cv-01770-ADA-EPG (PC) 12 Plaintiff, ORDER
DENYING PLAINTIFF’S MOTION

13 FOR APPOINTMENT OF PRO BONO

v. COUNSEL, WITHOUT PREJUDICE

14 J. NUNEZ-RUIZ, et al., (ECF No. 31) 15 Defendants. 16 17 18 Anthony A. Sanchez
 (“Plaintiff”) is a state prisoner proceeding pro se and in forma 19 pauperis in this civil rights
 action pursuant to 42 U.S.C. § 1983. 20 On March 7, 2023, Plaintiff filed a motion for
 appointment of pro bono counsel. (ECF

21 No. 31). Plaintiff asks for appointment of counsel because he is unable to afford counsel;
 because

22 his imprisonment and law library access will greatly limit his ability to litigate; because the
 issues 23 involved in this case are complex and will require significant research and investigation;
 because 24 Plaintiff has limited knowledge of the law and cannot obtain copies and forms to
 submit certain 25 documents and facts to the court; because a trial in this case will likely involve
 conflicting 26 testimony and counsel would better enable Plaintiff to present evidence and cross-
 examine 27 witnesses; and because Plaintiff has made repeated efforts to obtain counsel. 28
 Plaintiff does not have a constitutional right to appointed counsel in this action, *Rand v. 1 |*
 Rowland, 113 F.3d 1520, 1525 (9th Cir. 1997), withdrawn in part on other grounds, 154 F.3d 952

2 | (9th Cir. 1998), and the Court cannot require an attorney to represent Plaintiff pursuant to 28 3 |
U.S.C. § 1915(e)(1). *Mallard v. United States District Court for the Southern District of* 4
| 490 US. 296, 298 (1989). However, in certain exceptional circumstances the Court may request 5
| the voluntary assistance of counsel pursuant to section 1915(e)(1). *Rand*, 113 F.3d at 1525. 6
Without a reasonable method of securing and compensating counsel, the Court will seek 7 |
volunteer counsel only in the most serious and exceptional cases. In determining whether 8 ||
“exceptional circumstances exist, a district court must evaluate both the likelihood of success of 9
| the merits [and] the ability of the [plaintiff] to articulate his claims pro se in light of the 10 |
complexity of the legal issues involved.” *Id.* (citation and internal quotation marks omitted). 11
The Court will not order appointment of pro bono counsel at this time. The Court has 12 ||
reviewed the record in this case, and at this time the Court is unable to make a determination that
13 | Plaintiff is likely to succeed on the merits of his claims. Moreover, while there may be some
14 || issues, it appears that Plaintiff can adequately articulate his claims. 15 Plaintiff is advised that
he is not precluded from renewing his request for appointment of 16 | pro bono counsel at a later
stage of the proceedings. 17 For the foregoing reasons, IT IS ORDERED that Plaintiff's motion
for appointment of pro 18 | bono counsel is DENIED without prejudice. 19 IT IS SO ORDERED.
21 | Dated: _ March 14, 2023 [Je ey —
UNITED STATES MAGISTRATE JUDGE
23 24 25 26 27 28