

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA**

Joseph Emmanuel Gaxiola v. City of Modesto, et al.

Gaxiola v. City of Modesto · No. 2:25-cv-0556-DMC-P · Decided June 9, 2025

SUMMARY

The United States District Court for the Eastern District of California denied a pro se prisoner's motion for appointment of counsel in a 42 U.S.C. § 1983 action. The court concluded that the plaintiff had not shown exceptional circumstances because his asserted financial limitations, limited legal knowledge, and physical disabilities did not prevent him from coherently presenting claims that were not factually or legally complex.

OPINION

1 2 3 4 5 6 7 8 IN THE UNITED STATES DISTRICT COURT 9 FOR THE EASTERN
DISTRICT OF CALIFORNIA 10 11 JOSEPH EMMANUEL GAXIOLA, No. 2:25-cv-0556-
DMC-P 12 Plaintiff, 13 v. ORDER 14 CITY OF MODESTO, et al., 15 Defendants. 16 17
Plaintiff, a prisoner proceeding pro se, brings this civil rights action pursuant to 18 42 U.S.C. §
1983. Pending before the Court is Plaintiff's motion for the appointment of counsel, 19 ECF No. 3.
20 The United States Supreme Court has ruled that district courts lack authority to 21 require
counsel to represent indigent prisoners in § 1983 cases. See *Mallard v. United States Dist.* 22
Court, 490 U.S. 296, 298 (1989).

In certain exceptional circumstances, the district court may 23 request the voluntary assistance of
counsel pursuant to 28 U.S.C. § 1915(e)(1). See *Terrell v.* 24 *Brewer*, 935 F.2d 1015, 1017 (9th
Cir. 1991); *Wood v. Housewright*, 900 F.2d 1332, 1335-36 25 (9th Cir. 1990).

The test for “exceptional circumstances” requires the Court to evaluate the 26 plaintiff's
likelihood success on the merits and the ability of the plaintiff to articulate his claims 27 on his
own considering the complexity of the legal issues involved. See *Wilborn v. Escalderon*, 28 789
F.2d 1328, 1331 (9th Cir. 1986); *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir.

1983). 1 || Circumstances common to most prisoners, such as lack of legal education and limited
law library 2 || access, do not establish exceptional circumstances that would warrant a request for
voluntary 3 || assistance of counsel. 4 In the present case, the Court does not currently find the
required exceptional 5 || circumstances. Plaintiff contends that he cannot afford an attorney.

See ECF No. 3, pg. 1. Plaintiff 6 || also states that he has limited knowledge of the law, and a
lawyer can help with the trial process. 7 || *Id.* at 2. The Court finds that these are largely typical

and not exceptional circumstances. 8 || Additionally, Plaintiff asserts that his “visual impairment,” “mobility issues,” “seizure disorder,” 9 | and “chronic back pain” are his disabilities.

See id As to Plaintiff's disabilities, all the disabilities 10 || stated are physical in nature. Plaintiff's filings in this matter are coherent and demonstrate an 11 || understanding of his claims and ability to proceed notwithstanding his claimed disabilities. 12 | Indeed, a review of the docket reflects that Plaintiff can present his claims, which are neither 13 || factually nor legally complex, on his own.

14 Accordingly, IT IS HEREBY ORDERED that Plaintiff's motion for the 15 || appointment of counsel, ECF No. 3, is denied. 16 17 | Dated: June 5, 2025 Co 18 DENNIS M. COTA 19 UNITED STATES MAGISTRATE JUDGE 20 21 22 23 24 25 26 27 28