

**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

OPINION

(PC) Gaxiola v. City of Modesto

PER CURIAM.

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8 IN THE UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

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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