

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Janoiko v. Marchak, et al.

Janoiko · No. 1:24-cv-00652-CDB (PC) · Decided January 6, 2026

SUMMARY

The United States District Court for the Eastern District of California denied without prejudice Plaintiff Richard Janoiko’s motion for appointment of counsel and request for guidance on adding defendants and entities to his 42 U.S.C. § 1983 action. The court found no exceptional circumstances warranting appointed counsel and explained that adding new parties generally requires an amended complaint, while noting that the amendment deadline had passed.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Barbara A. McAuliffe
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	January 6, 2026
DOCKET	1:24-cv-00652-CDB (PC)
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff, a pro se state prisoner proceeding in forma pauperis under 42 U.S.C. § 1983, moved for appointment of counsel and requested guidance regarding adding additional persons and entities as defendants. The district court denied both requests without prejudice.
STANDARD OF REVIEW	The court evaluated appointment of counsel under the exceptional-circumstances standard, considering the likelihood of success on the merits and the plaintiff’s ability to articulate claims pro se in light of the complexity of the legal issues.
PRECEDENTIAL VALUE	unpublished district-court order

TOPICS

- civil procedure
- motion to amend
- section 1983
- prisoners rights
- civil rights

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether exceptional circumstances warranted the court's request for voluntary appointment of counsel under 28 U.S.C. § 1915(e)(1).
2. Whether the court could provide Plaintiff legal advice about adding new defendants and entities to the action after the deadline for amending pleadings had expired.

HOLDINGS

1. Appointment of counsel was not warranted because Plaintiff did not demonstrate the required exceptional circumstances. The court could not determine that Plaintiff was likely to succeed on the merits, and the record did not show that he was unable to adequately articulate his claims pro se.
2. The court could not provide Plaintiff legal advice about adding defendants. Generally, adding new parties requires filing an amended complaint complying with Federal Rule of Civil Procedure 8, but Plaintiff was reminded that the deadline for amending the pleadings had expired.

KEY QUOTATIONS

“However, in certain exceptional circumstances the court may request the voluntary assistance of counsel pursuant to section 1915(e)(1).” (at 1)

“Plaintiff is informed that the Court cannot provide him with legal advice.” (at 2)

FACTUAL BACKGROUND

Plaintiff is a state prisoner proceeding without counsel who alleged mobility and vision impairments, including tardive dyskinesia and vision in only one eye. He sought appointed counsel and asked how to add wardens, chief medical officers, CDCR directors, and pharmaceutical companies to his civil-rights action concerning alleged deliberate indifference to serious medical needs.

PROCEDURAL HISTORY

The action proceeds against Marchak, Galarza, and Nikzad on deliberate-indifference claims concerning serious medical needs under the Eighth Amendment. Plaintiff's complaint had been screened and found to state cognizable claims, and the deadline for amending pleadings had expired. The court considered Plaintiff's unopposed motion and request and denied them without prejudice.

DISPOSITION

other

CASES CITED

- *Rand v. Rowland*, 113 F.3d 1520, 1525 (9th Cir. 1997), rev'd in part on other grounds, 154 F.3d 952, 954 n.1 (9th Cir. 1998)

- Mallard v. U.S. Dist. Court for the S. Dist. of Iowa, 490 U.S. 296, 298 (1989)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 EASTERN DISTRICT OF
CALIFORNIA 10 11 RICHARD JANAIKO, Case No. 1:24-cv-00652-CDB (PC) 12 Plaintiff,
ORDER DENYING MOTION FOR APPOINTMENT OF COUNSEL AND 13 v. REQUEST TO
ADD PERSONS AND ENTITIES TO THIS CLAIM, WITHOUT 14 MARCHAK, et al.,
PREJUDICE 15 Defendants. (ECF No. 26) 16 17 Plaintiff Richard Janaiko (“Plaintiff”) is a state
prisoner proceeding pro se and in forma 18 pauperis in this civil rights action pursuant to 42
U.S.C. § 1983.

This action proceeds against 19 Defendants Marchak, Galarza, and Nikzad (“Defendants”) for
deliberate indifference to serious 20 medical needs in violation of the Eighth Amendment. 21
Currently before the Court is Plaintiff’s motion for appointment of counsel for an ADA 22 inmate
and request on how to add persons and entities to this claim, filed December 15, 2025.

23 (ECF No. 26.) Plaintiff states that he is mobility disabled due to his tardive dyskinesia (“TD”)
24 situation which affects his head and hand movement and his entire being. He is listed by CDCR
25 as an ADA mobility/vision impaired person. His vision is due to him having only one eye.

The 26 person aiding Plaintiff with these legal papers is not well versed in civil matters and fears
he may 27 cause more harm than help. There are several persons who Plaintiff believes should and
do have 28 liability in Plaintiff’s condition and should be added to this civil claim, but Plaintiff is
unsure how 1 to bring this in or who would be the proper person to list for certain official
positions.

Plaintiff 2 lists certain Wardens, Chief Medical Officers, and Directors of CDCR Institutions, as
well as 3 certain pharmaceutical companies. Plaintiff requests appointment of an attorney, and if
the Court 4 denies his motion, requests that the Court point him towards what technical aspects he
needs to 5 follow to add the above-listed persons. (Id.) 6 Defendants have not filed a response to
Plaintiff’s motion, and the deadline to do so has 7 expired.

The motion is deemed submitted. Local Rule 230(l). 8 Plaintiff is informed that he does not have a
constitutional right to appointed counsel in 9 this action, *Rand v. Rowland*, 113 F.3d 1520, 1525
(9th Cir. 1997), rev’d in part on other 10 grounds, 154 F.3d 952, 954 n.1 (9th Cir. 1998), and the
court cannot require an attorney to 11 represent plaintiff pursuant to 28 U.S.C. § 1915(e)(1).

Mallard v. U.S. Dist. Court for the S. Dist. 12 of Iowa, 490 U.S. 296, 298 (1989). However, in
certain exceptional circumstances the court may 13 request the voluntary assistance of counsel
pursuant to section 1915(e)(1). *Rand*, 113 F.3d at 14 1525. 15 Without a reasonable method of
securing and compensating counsel, the Court will seek 16 volunteer counsel only in the most
serious and exceptional cases.

In determining whether 17 “exceptional circumstances exist, a district court must evaluate both the likelihood of success on 18 the merits [and] the ability of the [plaintiff] to articulate his claims pro se in light of the 19 complexity of the legal issues involved.” Id. (internal quotation marks and citations omitted). 20 The Court has considered Plaintiff’s request, but does not find the required exceptional 21 circumstances.

Even if it is assumed that Plaintiff has made serious allegations which, if proved, 22 would entitle him to relief, his case is not exceptional. This Court is faced with similar cases filed 23 almost daily by prisoners suffering from serious mental and physical disabilities who must also 24 conduct legal research, obtain discovery, and litigate their cases without the assistance of counsel 25 and with limited access to the law library.

26 Furthermore, at this stage in the proceedings, the Court cannot make a determination that 27 Plaintiff is likely to succeed on the merits. Although Plaintiff’s complaint was screened and 28 found to state cognizable claims, this does not mean that Plaintiff’s claims are likely to succeed 1 on the merits.

Finally, based on a review of the record in this case, the Court does not find that 2 Plaintiff cannot adequately articulate his claims. 3 With respect to Plaintiff’s request for guidance as to how to add defendants to this action, 4 Plaintiff is informed that the Court cannot provide him with legal advice.

However, Plaintiff is 5 informed that generally the addition of new parties to an action requires the filing of an amended 6 complaint, which complies with Fed. R. Civ. P. 8. Plaintiff is reminded that the deadline for 7 amending the pleadings was November 11, 2025. (ECF No. 24.) 8 Accordingly, Plaintiff’s motion for appointment of counsel and request to add persons and 9 entities to this claim, (ECF No. 26), is HEREBY DENIED, without prejudice.

10 IT IS SO ORDERED. 11 12 Dated: January 6, 2026 /s/ Barbara A. McAuliffe _ UNITED STATES MAGISTRATE JUDGE 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28