

**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

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 EASTERN DISTRICT OF
CALIFORNIA 10 11 RICHARD JANOIKO, 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 Janoiko (“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