

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Andrew Clark v. J. Walters

No. 1:23-cv-01305-SAB (PC) (E.D. Cal. Oct. 7, 2025) · No. 1:23-cv-01305-SAB (PC) · Decided October 7,
2025

SUMMARY

The United States District Court for the Eastern District of California denied Andrew Clark’s motion for appointment of counsel without prejudice in his pro se civil rights action against J. Walters. The court held that Clark had not demonstrated exceptional circumstances under 28 U.S.C. § 1915(e)(1), particularly because the likelihood of success could not yet be determined and he appeared able to articulate his claims.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Stanley A. Boone
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	October 7, 2025
DOCKET	1:23-cv-01305-SAB (PC)
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff, proceeding pro se and in forma pauperis in a civil rights action, moved for appointment of counsel under 28 U.S.C. § 1915(e)(1).
STANDARD OF REVIEW	Appointment of counsel for an indigent civil litigant is evaluated under the exceptional-circumstances standard, considering both 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PRECEDENTIAL VALUE	unpublished, nonprecedential district court order

TOPICS

- civil rights
- prisoners rights
- civil procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Plaintiff was entitled to appointment of counsel in his prisoner civil rights action.
2. Whether exceptional circumstances existed under 28 U.S.C. § 1915(e)(1) based on the likelihood of success on the merits and Plaintiff's ability to articulate his claims pro se.

HOLDINGS

1. An indigent plaintiff does not have a constitutional right to appointed counsel in a civil rights action, and the court cannot require an attorney to represent the plaintiff under 28 U.S.C. § 1915(e)(1).
2. Exceptional circumstances require evaluation of both the plaintiff's 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. Plaintiff did not establish exceptional circumstances warranting appointment of counsel.

KEY QUOTATIONS

"The test for exceptional circumstances requires the Court to evaluate the Plaintiffs likelihood of success on the merits and the ability of the Plaintiff to articulate his claims pro se in light of the complexity of the legal issues involved." (1)

"Accordingly, Plaintiff's motion for appointment of counsel is denied, without prejudice." (2)

FACTUAL BACKGROUND

Plaintiff is incarcerated, proceeding pro se and in forma pauperis, and asserted a retaliation claim against J. Walters. He requested appointed counsel, citing the early stage of the case, difficulties associated with litigation, and a legitimate learning disability. The court found that the record did not indicate that Plaintiff was unable to adequately articulate his claims, whether alone or with inmate assistance.

PROCEDURAL HISTORY

The action included a cognizable retaliation claim against Defendant J. Walters. At an early stage of the proceedings, Plaintiff moved for appointment of counsel. The court denied the motion without prejudice because it could not determine a likelihood of success on the merits and found no showing that Plaintiff was unable to articulate his claims pro se.

DISPOSITION

other

CASES CITED

- Rand v. Rowland, 113 F.3d 1520, 1525 (9th Cir. 1997)
- Mallard v. United States District Court for the Southern District of Iowa, 490 U.S. 296, 298 (1989)

- Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th Cir. 1986)
- Weygandt v. Look, 718 F.2d 952, 954 (9th Cir. 1983)
- Courtney v. Kandel, No. 2:18-CV-2052-KJM-DMC-P, 2020 WL 1432991, at *1 (E.D. Cal. Mar. 24, 2020)

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