

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

Williams v. Kern State Prison, et al.

Williams v. Kern State Prison · No. 1:24-cv-00556 GSA (PC) · Decided July 29, 2025

OPINION

(PC) Williams v. Kern State Prison

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

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11 CHARMAR WILLIAMS, No. 1:24-cv-00556 GSA (PC)

12 Plaintiff, ORDER DENYING PLAINTIFF’S MOTION

FOR THE APPOINTMENT OF COUNSEL

13 v. (ECF No. 10) 14 KERN STATE PRISON, et al., 15 Defendants. 16 17 Plaintiff, a state
prisoner proceeding pro se and in forma pauperis, has filed this civil 18 rights action seeking relief
under 42 U.S.C. § 1983. The matter was referred to a United States 19 Magistrate Judge pursuant
to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302. 20 Plaintiff has filed a motion for the
appointment of counsel. ECF No. 10. For the reasons 21 stated below, the motion will be denied.

22 I. PLAINTIFF’S MOTION FOR THE APPOINTMENT OF COUNSEL

23 In support of Plaintiff’s motion for the appointment of counsel he states, in part, that his 24
case is complex and that the legal issues in it needs to be “articulate by an attorney.” ECF No. 10
25 at 1. He also states that he is an indigent applicant and that appointing counsel will enable him
to 26 have help with his amended complaint or set grounds for summary judgment or preliminary
27 injunction. Id. 28

1 II. APPLICABLE LAW

2 District courts lack authority to require counsel to represent indigent prisoners in section 3 1983
cases. *Mallard v. United States Dist. Court*, 490 U.S. 296, 298 (1989). In exceptional 4
circumstances, the court may request an attorney to voluntarily represent such a plaintiff. See 28 5
U.S.C. § 1915(e)(1). *Terrell v. Brewer*, 935 F.2d 1015, 1017 (9th Cir. 1991); *Wood v. 6*
Housewright, 900 F.2d 1332, 1335-36 (9th Cir. 1990). When determining whether “exceptional 7
circumstances” exist, the court must consider plaintiff’s likelihood of success on the merits as 8
well as the ability of the plaintiff to articulate his claims pro se in light of the complexity of the 9
legal issues involved. *Palmer v. Valdez*, 560 F.3d 965, 970 (9th Cir. 2009) (district court did not 10
abuse discretion in declining to appoint counsel). The burden of demonstrating exceptional 11

circumstances is on the plaintiff. Id.

12 III. DISCUSSION

13 Plaintiff’s motion for the appointment of counsel will be denied for several reasons. First, 14
because Plaintiff’s amended complaint has not yet been screened, it is unclear what the likelihood
15 of success it will have on its merits. Second, a review of Plaintiff’s original complaint, as well
as 16 of the Court’s screening order for it, indicates that Plaintiff’s ability to articulate the claims
in his 17 complaint is not at issue. In the screening of the original complaint, the Court found that
the 18 pleading was deficient for simple, readily addressable reasons like the lack of dates for the
19 alleged constitutional violations and an apparent failure to exhaust administrative remedies.
See 20 ECF No. 8 at 3-4 (screening order). 21 Finally, circumstances common to most prisoners,
such as lack of legal education, do not 22 establish exceptional circumstances that warrant a
request for voluntary assistance of counsel. 23 For these reasons, having considered the factors
under Palmer, the Court finds that plaintiff failed 24 to meet his burden of demonstrating
exceptional circumstances warranting the appointment of 25 counsel at this time. 26 Accordingly,
IT IS HEREBY ORDERED that Plaintiff’s motion for the appointment of 27 counsel (ECF No.
10) is DENIED without prejudice. 28 1 IT IS SO ORDERED. 2 3 Dated: July 29, 2025 /s/ Gary S.
Austin

UNITED STATES MAGISTRATE JUDGE

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