

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Daley v. Pelayo

No. 1:20-cv-01129 JLT GSA (PC) (E.D. Cal. July 23, 2025) · No. 1:20-cv-01129 JLT GSA (PC) · Decided July 23, 2025

SUMMARY

The United States District Court for the Eastern District of California denied Plaintiff Alcliff Morgan Daley’s motion for appointment of counsel in his 42 U.S.C. § 1983 action against Pelayo and others. The court held that Daley had not demonstrated exceptional circumstances under 28 U.S.C. § 1915(e) (1), noting his ability to prosecute the case pro se and the absence of circumstances beyond those common to incarcerated litigants.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Gary S. Austin
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	July 23, 2025
DOCKET	1:20-cv-01129 JLT GSA (PC)
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff, a state prisoner proceeding pro se and in forma pauperis in a 42 U.S.C. § 1983 action, moved for appointment of counsel while the case was in discovery.
STANDARD OF REVIEW	The court applied the exceptional-circumstances standard and considered the plaintiff's likelihood of success on the merits and ability to articulate his claims pro se in light of the complexity of the legal issues. The appointment decision is discretionary.
PRECEDENTIAL VALUE	Unknown; district-court order with no reporter citation
PARTIES	Alcliff Morgan Daley v. Pelayo, et al.

TOPICS

- civil procedure
- civil rights
- prisoners rights
- section 1983
- remedies

PRACTICE AREAS

civil procedure

civil rights

prisoner civil rights

appointment of counsel

remedies

QUESTIONS PRESENTED

1. Whether the court should request voluntary appointment of counsel for an indigent prisoner litigating a § 1983 action.
2. Whether plaintiff demonstrated exceptional circumstances based on his asserted lack of legal education, limited law-library access, limited English proficiency, inability to afford counsel, and the complexity of the case.

HOLDINGS

1. A district court may request an attorney to voluntarily represent an indigent prisoner in a § 1983 action only when exceptional circumstances exist; the court cannot require counsel to represent the prisoner.
2. Daley failed to demonstrate exceptional circumstances warranting appointment of counsel at that time, so his motion was denied.

KEY QUOTATIONS

“Circumstances common to most prisoners, such as lack of legal education and limited law library access, do not establish exceptional circumstances that warrant a request for voluntary assistance of counsel.” (at 2)

“Therefore, his motion will be denied.” (at 2)

FACTUAL BACKGROUND

Plaintiff was a state prisoner litigating pro se and in forma pauperis in a § 1983 action. He asserted limited access to the prison law library, limited legal education and formal schooling, limited English proficiency, inability to afford counsel, and complexity of the issues. His complaint had been served, the case was in discovery, and he had prosecuted the matter satisfactorily without counsel since 2020.

PROCEDURAL HISTORY

Daley filed a prisoner civil-rights action under 42 U.S.C. § 1983. The matter was referred to a magistrate judge, the complaint had been served, and the action was in the discovery phase when Daley moved for appointment of counsel. The court denied the motion.

DISPOSITION

other

CASES CITED

- *Mallard v. United States Dist. Court*, 490 U.S. 296, 298 (1989)
- *Terrell v. Brewer*, 935 F.2d 1015, 1017 (9th Cir. 1991)

- Wood v. Housewright, 900 F.2d 1332, 1335-36 (9th Cir. 1990)
- Palmer v. Valdez, 560 F.3d 965, 970 (9th Cir. 2009)

OPINION

(PC)Daley v. Pelayo

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10

11 ALCLIFF MORGAN DALEY, No. 1:20-cv-01129 JLT GSA (PC)

12 Plaintiff, ORDER DENYING PLAINTIFF’S MOTION

FOR THE APPOINTMENT OF COUNSEL

13 v. (ECF No. 82) 14 PELAYO, 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. This case is in the 20 discovery phase of the proceedings. See
ECF No. 79 (second discovery and scheduling order). 21 Plaintiff has filed a motion for the
appointment of counsel. ECF No. 82. For the reasons 22 stated below, the motion will be denied.

23 I. MOTION FOR THE APPOINTMENT OF COUNSEL

24 In support of Plaintiff’s motion for the appointment of counsel, he states in part that he has 25
limited prison law library access; that he is a “layman at law”; that he does not know which 26
papers to file in order to continue to litigate this case; that his first language is not English, and 27
that he has limited formal education. ECF No. 82 at 2-3. Plaintiff further asserts that he cannot 28
1 afford to hire counsel to represent him and that the issues in this case are complex. Id. at 3.

2 II. APPLICABLE LAW

3 District courts lack authority to require counsel to represent indigent prisoners in section 4 1983
cases. Mallard v. United States Dist. Court, 490 U.S. 296, 298 (1989). In exceptional 5
circumstances, the court may request an attorney to voluntarily represent such a plaintiff. See 28 6
U.S.C. § 1915(e)(1). Terrell v. Brewer, 935 F.2d 1015, 1017 (9th Cir. 1991); Wood v. 7
Housewright, 900 F.2d 1332, 1335-36 (9th Cir. 1990). When determining whether “exceptional 8
circumstances” exist, the court must consider plaintiff’s likelihood of success on the merits as 9
well as the ability of the plaintiff to articulate his claims pro se in light of the complexity of the 10
legal issues involved. Palmer v. Valdez, 560 F.3d 965, 970 (9th Cir. 2009) (district court did not 11
abuse discretion in declining to appoint counsel). 12 The burden of demonstrating exceptional
circumstances is on the plaintiff. Id. 13 Circumstances common to most prisoners, such as lack of
legal education and limited law library 14 access, do not establish exceptional circumstances that
warrant a request for voluntary assistance 15 of counsel.

16 III. DISCUSSION

17 Plaintiff’s motion for the appointment of counsel must be denied because no exceptional 18
circumstances have been presented in it. In addition, the fact that Plaintiff’s complaint has been 19
served and that it is in the discovery phase of the proceedings indicates a possibility that his 20
complaint could be successful on its merits. In addition, the Court notes the fact that this case has
21 been on its docket since 2020, and to date Plaintiff has satisfactorily prosecuted the mater
without 22 the assistance of counsel despite any asserted complex legal issues that may exist in it.
23 For these reasons, having considered the factors under Palmer, the Court finds that 24 Plaintiff
has failed to meet his burden of demonstrating exceptional circumstances warranting the 25
appointment of counsel at this time. Therefore, his motion will be denied. 26 Accordingly, IT IS
HEREBY ORDERED that Plaintiff’s motion for the appointment of 27 counsel (ECF No. 82) is
DENIED. 28 1 IT IS SO ORDERED. 2 3 Dated: July 23, 2025 /s/ Gary S. Austin

UNITED STATES MAGISTRATE JUDGE

4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28