

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

Moreno v. Borla

Moreno · No. 25-cv-03448 BLF (PR) · Decided June 10, 2025

SUMMARY

The United States District Court for the Northern District of California denied a pro se prisoner’s motion for a preliminary injunction concerning double celling and alleged retaliation. The court denied the injunction without prejudice because the complaint had not yet been screened or served, and denied appointment of counsel because no exceptional circumstances were shown.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	Beth Labson Freeman
JURISDICTION	United States District Court for the Northern District of California
DECIDED	June 10, 2025
DOCKET	25-cv-03448 BLF (PR)
DISPOSITION	other
PROCEDURAL POSTURE	A California state prisoner proceeding pro se under 42 U.S.C. § 1983 moved for a preliminary injunction and appointment of counsel before the court screened his complaint.
STANDARD OF REVIEW	A preliminary injunction requires notice to the adverse party under Federal Rule of Civil Procedure 65(a)(1); appointment of counsel for an indigent civil litigant under 28 U.S.C. § 1915 is committed to the district court's sound discretion and is available only in exceptional circumstances.
PRECEDENTIAL VALUE	unpublished district court order
PARTIES	Albert Moreno v. Edward Borla, Jeffrey Macomber

TOPICS

- injunctions
- prisoners rights
- section 1983
- civil rights
- civil procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the court could grant a preliminary injunction before the defendants had been served and before the complaint had been screened under 28 U.S.C. § 1915A.
2. Whether the plaintiff demonstrated exceptional circumstances warranting appointment of counsel in his civil-rights action.

HOLDINGS

1. The court could not decide the preliminary-injunction motion before the adverse parties were served because Rule 65(a)(1) requires notice to the adverse party.
2. Appointment of counsel was not warranted because the plaintiff had not shown exceptional circumstances.

KEY QUOTATIONS

“Prior to granting a preliminary injunction, notice to the adverse party is required.” (at 2)

“The decision to request counsel to represent an indigent litigant under § 1915 is within “the sound discretion of the trial court and is granted only in exceptional circumstances.”” (at 3)

FACTUAL BACKGROUND

Moreno, a California inmate housed at the Correctional Training Facility, alleged that double-celling prisoners in certain smaller cells provided inadequate living space in violation of the Eighth Amendment. He also alleged that officers threatened or used disciplinary action to force him to accept double-cell housing. He sought an injunction requiring single-cell status and barring disciplinary action related to his refusal to be double-celled, as well as appointment of counsel.

PROCEDURAL HISTORY

Moreno filed a civil-rights action against Correctional Training Facility Warden Edward Borla and California Department of Corrections and Rehabilitation Secretary Jeffrey Macomber. He then moved for a preliminary injunction seeking single-cell housing and an end to alleged disciplinary retaliation, and moved for appointment of counsel. The district court had not yet screened the complaint under 28 U.S.C. § 1915A, denied the preliminary-injunction motion without prejudice to refile if the action proceeded past screening, and denied appointment of counsel for lack of exceptional circumstances.

DISPOSITION

other

CASES CITED

- *Zepeda v. INS*, 753 F.2d 719, 727 (9th Cir. 1985)

- *Lassiter v. Dep't of Social Services*, 452 U.S. 18, 25 (1981)
- *Rand v. Rowland*, 113 F.3d 1520, 1525 (9th Cir. 1997)
- *Rand v. Rowland*, 154 F.3d 952 (9th Cir. 1998) (en banc)
- *Franklin v. Murphy*, 745 F.2d 1221, 1236 (9th Cir. 1984)
- *Agyeman v. Corrections Corp. of America*, 390 F.3d 1101, 1103 (9th Cir. 2004)
- *Terrell v. Brewer*, 935 F.2d 1015, 1017 (9th Cir. 1991)
- *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986)

Retrieved from lawtools.ai · <https://lawtools.ai/cases/federal/united-states-district-court-for-the-northern-district-of-ca/2025/moreno-v-borla-i3dpj4xv>