

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Keen v. Cross

Keen · No. 2:24-cv-0299-JDP (P) · Decided May 22, 2025

SUMMARY

The United States District Court for the Eastern District of California denied Brandon Keen’s motion to obtain video evidence and motion for appointment of counsel in his 42 U.S.C. § 1983 action. The court held that discovery requests must be served on the opposing parties rather than filed with the court and found that Keen had not demonstrated exceptional circumstances warranting appointed counsel.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Jeremy D. Peterson
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	May 22, 2025
DOCKET	2:24-cv-0299-JDP (P)
DISPOSITION	other
PROCEDURAL POSTURE	In a prisoner civil-rights action under 42 U.S.C. § 1983, plaintiff moved to obtain video evidence and for appointment of counsel. The district court denied both motions.
STANDARD OF REVIEW	The court applied the procedural requirements governing discovery requests and exercised its discretion under the exceptional-circumstances standard for appointment of counsel in prisoner § 1983 actions.
PRECEDENTIAL VALUE	Unpublished district court order; limited persuasive value.
PARTIES	Brandon Keen v. Cross, Wallace

TOPICS

- discovery dispute
- civil procedure
- section 1983
- prisoners rights
- civil rights

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether plaintiff could obtain video evidence by filing a discovery request with the court rather than serving the request on defendants.
2. Whether plaintiff demonstrated exceptional circumstances warranting appointment of counsel in his prisoner § 1983 action.

HOLDINGS

1. Plaintiff's motion to obtain video evidence was denied because discovery requests must be served on the parties, and filing the requests with the court was procedurally improper where no local rule required court review.
2. Plaintiff failed to demonstrate exceptional circumstances warranting appointment of counsel, so the motion for appointment of counsel was denied.

KEY QUOTATIONS

“When determining whether “exceptional circumstances” exist, the court must consider plaintiff’s likelihood of success on the merits as well as the ability of the plaintiff to articulate his claims pro se in light of the complexity of the legal issues involved.” (at 2)

FACTUAL BACKGROUND

Plaintiff is a state inmate proceeding pro se in a § 1983 action against Cross and Wallace. He alleges that defendants knew he had set a fire in his cell but failed to help him, violating the Eighth Amendment. He sought all video evidence and defendants' body-camera footage, and also requested counsel based on his lack of legal knowledge and mental-health issues.

PROCEDURAL HISTORY

Plaintiff, a state inmate proceeding pro se, filed an action alleging that defendants violated his Eighth Amendment rights by failing to assist him after they became aware that he had set a fire in his cell. After entry of a scheduling order, plaintiff filed motions to obtain video evidence and appoint counsel. The court denied both motions without deciding whether plaintiff's discovery request was timely.

DISPOSITION

other

CASES CITED

- *Mallard v. United States District 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)

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