

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Carr v. Balaji

Carr v. Balaji · No. 2:19-cv-00688-TLN-EFB (PC) · Decided August 2, 2023

SUMMARY

The United States District Court for the Eastern District of California granted a state prisoner additional time to conduct discovery and oppose a pending motion for summary judgment after appointed counsel withdrew. The court denied without prejudice the request to file a second amended complaint and denied the request to compel another attorney from former counsel’s firm to represent the plaintiff. The order set discovery, motion-to-compel, and summary-judgment opposition deadlines.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Edmund F. Brennan
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	August 2, 2023
DOCKET	2:19-cv-00688-TLN-EFB (PC)
DISPOSITION	other
PROCEDURAL POSTURE	Order resolving a prisoner-plaintiff's motions concerning former counsel's withdrawal, modification of the discovery and briefing schedule, additional discovery, appointment of replacement counsel, and leave to file a second amended complaint while defendants' motion for summary judgment remained pending.
STANDARD OF REVIEW	A scheduling order may be modified only upon a showing of good cause, assessed primarily by the moving party's diligence and potentially by prejudice to the opposing party. Requests for discretionary appointment of counsel require exceptional circumstances, evaluated by considering the likelihood of success and the plaintiff's ability to articulate claims in light of their complexity. Leave to amend requires sufficient information, including a proposed amended complaint, to evaluate the propriety of amendment.
PRECEDENTIAL VALUE	nonprecedential district court order

TOPICS

discovery dispute

summary judgment

motion to amend

section 1983

civil procedure

PRACTICE AREAS

civil procedure

civil rights

prisoner litigation

QUESTIONS PRESENTED

1. Whether plaintiff showed good cause to modify the scheduling order and obtain additional time for discovery and to oppose the pending summary judgment motion.
2. Whether the court could require another attorney from plaintiff's former counsel's firm to represent him.
3. Whether plaintiff should receive leave to file a second amended complaint asserting unspecified new claims.
4. Whether summary judgment should proceed before plaintiff had an opportunity for additional discovery relevant to his claims.

HOLDINGS

1. The court granted plaintiff additional time to conduct discovery, file discovery motions, and oppose the pending motion for summary judgment because the circumstances surrounding counsel's withdrawal and the apparent lack of completed discovery supported modification of the schedule.
2. The court denied plaintiff's request to compel an attorney from former counsel's law firm to represent him.
3. The court denied plaintiff's request for leave to file a second amended complaint without prejudice.

KEY QUOTATIONS

"Thus summary judgment in the face of requests for additional discovery is appropriate only where such discovery would be 'fruitless' with respect to the proof of a viable claim." (at 2)

"District courts lack authority to require counsel to represent prisoners in § 1983 cases." (at 3)

FACTUAL BACKGROUND

Plaintiff is a state prisoner proceeding under 42 U.S.C. § 1983. His appointed counsel, Chijioke Ikonte, provided what plaintiff characterized as minimal discovery responses and withdrew after an apparent breakdown in communication. Defendants' motion for summary judgment remained pending, and plaintiff sought additional discovery time and an opportunity to respond. Plaintiff also sought replacement counsel and leave to assert unspecified new claims in a second amended complaint.

PROCEDURAL HISTORY

Plaintiff initially filed the action pro se under 42 U.S.C. § 1983 and later obtained appointed counsel. The court entered a discovery and scheduling order, extended the discovery deadline, and subsequently granted counsel's

motion to withdraw. Plaintiff then sought additional time for discovery and to oppose defendants' pending summary judgment motion, appointment of another attorney from former counsel's firm, and leave to file a second amended complaint. The court granted additional time for discovery and opposition to summary judgment, but denied the requests for replacement counsel and amendment without prejudice.

DISPOSITION

other

CASES CITED

- Johnson v. Mammoth Recreations, 975 F.2d 604, 609 (9th Cir. 1992)
- Jones v. Blanas, 393 F.3d 918, 930 (9th Cir. 2004)
- Klingele v. Eikenberry, 849 F.2d 409, 412 (9th Cir. 1988)
- 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)

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