

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Wright v. Zaldivar-Galves

Wright · No. No. 1:24-cv-01029 JLT GSA (PC) · Decided July 7, 2025

SUMMARY

The United States District Court for the Eastern District of California denied Keith Jerome Wright’s second motion for appointment of counsel in his 42 U.S.C. § 1983 action. Applying the exceptional-circumstances standard, the court concluded that Plaintiff had not shown a sufficient need for appointed counsel and denied the motion without prejudice.

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 7, 2025
DOCKET	No. 1:24-cv-01029 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. The court denied the motion without prejudice.
STANDARD OF REVIEW	The court exercises discretion in determining whether exceptional circumstances warrant requesting voluntary counsel for an indigent prisoner. The plaintiff bears the burden of demonstrating exceptional circumstances.
PRECEDENTIAL VALUE	Unpublished district-court order; precedential status unknown
PARTIES	Keith Jerome Wright v. Idalberto Zaldivar-Galves

TOPICS

- prisoners rights
- civil rights
- civil procedure

PRACTICE AREAS

- Prisoner civil rights
- Civil procedure
- Appointment of counsel

QUESTIONS PRESENTED

1. Whether exceptional circumstances warranted the court's requesting voluntary appointment of counsel for an indigent prisoner in a § 1983 action.

HOLDINGS

1. An indigent prisoner seeking voluntary counsel in a § 1983 action must demonstrate exceptional circumstances by showing both a likelihood of success on the merits and an inability to articulate the claims pro se in light of the complexity of the legal issues. Wright failed to meet that burden, so appointment of counsel was not warranted at that time.
2. District courts lack authority to require counsel to represent indigent prisoners in § 1983 cases.

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)

“For these reasons, having considered the factors under Palmer, the Court finds that Plaintiff has failed to meet his burden of demonstrating exceptional circumstances warranting the appointment of counsel at this time, and the motion will be denied.” (at 2)

FACTUAL BACKGROUND

Keith Jerome Wright is a state prisoner proceeding pro se and in forma pauperis in a § 1983 civil-rights action. He asserted that his family had contacted five attorneys without receiving responses, that the case was complex, that witnesses would need to be located and interviewed, that prison mail practices impeded litigation, and that he had been denied copies of some medical imaging. The court noted that the complaint had viable claims and had been served, and that Wright had litigated the case satisfactorily to date.

PROCEDURAL HISTORY

Wright filed a prisoner civil-rights action under 42 U.S.C. § 1983. The matter was referred to a magistrate judge under 28 U.S.C. § 636(b)(1)(B) and Local Rule 302. After an earlier request for counsel, Wright filed a second motion seeking appointment of counsel, which the court denied without prejudice.

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

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 KEITH JEROME WRIGHT, No. 1:24-cv-01029 JLT GSA (PC) 12 Plaintiff,
ORDER DENYING PLAINTIFF'S MOTION FOR THE APPOINTMENT OF COUNSEL 13 v.
(ECF No. 31) 14 IDALBERTO ZALDIVAR-GALVES, 15 Defendant. 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.
31. This is 21 Plaintiff's second time making the request. See ECF No. 20.

For the reasons stated below, the 22 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 25 his family has contacted five attorneys but none have
responded; that the issues in this case are 26 complex; that several witnesses will need to be
located in interviewed; and, the prison where he is 27 incarcerated does not follow guidelines
regarding mail.

See ECF No. 31 at 2-3. Plaintiff also 28 states that he has been denied requests for copies of some
of his medical imaging. *Id.* at 3. 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. 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.* Circumstances common to most prisoners, such as lack of 12 legal education and
limited law library access, do not establish exceptional circumstances that 13 warrant a request for
voluntary assistance of counsel.

14 III. DISCUSSION 15 Plaintiff's motion must be denied. The fact that Plaintiff's complaint has
viable claims 16 and that it has been served indicates that Plaintiff may have success with it on its
merits. In 17 addition, to date, Plaintiff has been able to litigate this case in a satisfactory manner
despite any 18 complexity, and despite issues related to prosecuting his case.

For these reasons, having 19 considered the factors under Palmer, the Court finds that Plaintiff has failed to meet his burden of 20 demonstrating exceptional circumstances warranting the appointment of counsel at this time, and 21 the motion will be denied. 22 Accordingly, IT IS HEREBY ORDERED that Plaintiff's motion for the appointment of 23 counsel (ECF No. 31) is DENIED without prejudice.

24 25 IT IS SO ORDERED. 26 27 Dated: July 7, 2025 /s/ Gary S. Austin UNITED STATES MAGISTRATE JUDGE 28