

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.

OPINION

(PC) Wright v. Zaldivar-Galves

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

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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. 6*
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

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