

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA**

Trammel v. Ramos

Trammel v. Ramos · No. 2:23-cv-1111 KJM AC P · Decided June 12, 2025

OPINION

(PC) Trammel v. Ramos

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10

11 DEMARION TRAMMEL, No. 2:23-cv-1111 KJM AC P

12 Plaintiff, 13 v. ORDER 14 A. RAMOS, et al., 15 Defendants. 16 17 Plaintiff is a state prisoner
proceeding pro se. Findings and Recommendations regarding 18 defendant's motion for a stay
have been submitted to the district judge (ECF No. 51), and 19 defendants have filed objections
(ECF No. 52). In light of those objections, for the reasons 20 explained below, the Findings and
Recommendations will be vacated and supplemental briefing 21 ordered. The court also addresses
plaintiff's motion for appointment of counsel (ECF No. 53). 22 I. Objections to Findings and
Recommendations 23 On May 13, 2025, the undersigned recommended the denial of defendants'
motion for a 24 stay pursuant to *Railroad Commission of Texas v. Pullman Co.*, 312 U.S. 496
(1941). ECF No. 25 51. In so recommending, the undersigned also sua sponte considered whether
abstention was 26 appropriate under *Younger v. Harris*, 401 U.S. 37 (1971), and found that it was
not. Id. at 4-6. It 27 was further noted that, for the same reasons *Younger* abstention was not
appropriate, defendants' 28 cursory argument that plaintiff's claims would be barred by *Heck v.*
Humphrey, 512 U.S. 477 1 (1994), was also unconvincing. Id. at 5 n.3. 2 Defendants have now
filed objections to the findings and recommendations in which they 3 argue for the first time that
Younger abstention is appropriate, and—unlike in their moving 4 papers—fully articulate their
argument that plaintiff's claims will be barred by *Heck*. ECF No. 5 52. They also request that the
court take judicial notice of the transcript of plaintiff's preliminary 6 hearing in his state criminal
case. ECF No. 52-1. 7 Although defendants should have fully briefed their *Heck* bar theory in
their moving 8 papers rather than in their objections, in the interests of judicial economy the May
13, 2025 9 findings and recommendations will be vacated and defendants will be given an
opportunity to 10 provide supplemental briefing on whether *Younger* abstention is appropriate in
this case, 11 including any arguments as to why this case would be *Heck* barred if plaintiff is
convicted in the 12 state court. Defendants should present all arguments for why a stay is

appropriate that they may wish to make. Plaintiff will then be given an opportunity to respond, at which point the matter will be submitted for decision. II. Motion for Counsel Plaintiff has moved for appointment of counsel. ECF No. 53. District courts lack authority to require counsel to represent indigent prisoners in section 1983 cases. *Mallard v. United States Dist. Court*, 490 U.S. 296, 298 (1989). In exceptional circumstances, the court may request an attorney to voluntarily represent such a plaintiff. See 28 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 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. *Palmer v. Valdez*, 560 F.3d 965, 970 (9th Cir. 2009) (district court did not abuse discretion in declining to appoint counsel). The burden of demonstrating exceptional circumstances is on the plaintiff. *Id.* Circumstances common to most prisoners, such as lack of legal education and limited law library access, do not establish exceptional circumstances that warrant a request for voluntary assistance of counsel.] Plaintiff seeks appointment of counsel on the ground that he requires assistance going into trial because of his mental and physical capabilities. ECF No. 53. However, it has not yet been determined whether this case will proceed to trial, and plaintiff has not provided any explanation or evidence demonstrating that his mental and physical capabilities render him unable to represent himself. Plaintiff has therefore failed to meet his burden of demonstrating exceptional circumstances warranting the appointment of counsel at this time. 7 Accordingly, IT IS HEREBY ORDERED that: 8 1. The Findings and Recommendations issued on May 13, 2025 (ECF No. 51) are 9 VACATED. 10 2. Within twenty-one days of the service of this order, defendants may file a 11 supplemental brief in support of their motion to stay, as set forth above. Plaintiff may file a 12 response within twenty-one days of service of the supplemental brief. 13 3. Plaintiffs motion for the appointment of counsel (ECF No. 53) is DENIED without 14 prejudice. 15 DATED: June 12, 2025 '

17 UNITED STATES MAGISTRATE JUDGE

18 19 20 21 22 23 24 25 26 27 28