

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Haggerty v. Lynch

Haggerty · No. 2:21-cv-01248-DJC-AC · Decided May 6, 2025

SUMMARY

The United States District Court for the Eastern District of California denied Lee Haggerty’s motion to appoint counsel, concluding that exceptional circumstances were not present under 28 U.S.C. § 1915(e)(1). The court granted Haggerty an extension to file his Final Pretrial Statement by May 27, 2025, and cautioned that failure to identify witnesses and exhibits could result in evidentiary sanctions.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Daniel J. Calabretta
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	May 6, 2025
DOCKET	2:21-cv-01248-DJC-AC
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved for an extension of time to file his Final Pretrial Statement and for appointment of counsel in his pending prisoner civil-rights action.
STANDARD OF REVIEW	The court applied the exceptional-circumstances standard governing requests for appointed counsel for indigent civil litigants under 28 U.S.C. § 1915(e)(1), considering likelihood of success on the merits and the litigant's ability to articulate claims in light of the complexity of the legal issues.
PRECEDENTIAL VALUE	Unknown; district-court order with no reporter citation.

TOPICS

- civil procedure
- sanctions
- prisoners rights
- civil rights

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Plaintiff established exceptional circumstances warranting the court's request for counsel under 28 U.S.C. § 1915(e)(1).
2. Whether Plaintiff should receive additional time to file his Final Pretrial Statement and related witness and exhibit lists.

HOLDINGS

1. A court may request counsel for an indigent civil litigant only when exceptional circumstances exist, evaluated cumulatively by considering the likelihood of success on the merits and the prisoner's ability to articulate the claim in light of the complexity of the legal issues. Plaintiff's limited legal abilities, limited law-library access, and loss of legal materials did not establish exceptional circumstances on this record.
2. The court granted Plaintiff additional time and ordered him to file his Final Pretrial Statement by May 27, 2025.

KEY QUOTATIONS

“Neither factor is dispositive; rather they must be considered cumulatively.” (at 1)

“Circumstances most common to prisoners, such as lack of legal education and limited law library access, do not establish exceptional circumstances that would warrant a request for voluntary assistance of counsel.” (at 1)

FACTUAL BACKGROUND

Plaintiff Lee Haggerty reported limited reading and writing abilities and stated that he had lost access to his legal materials after the person possessing them was placed in administrative segregation. He sought appointed counsel and additional time to submit his Final Pretrial Statement. The court found that these circumstances did not amount to exceptional circumstances warranting a request for voluntary counsel, but granted additional time to file the statement and witness and exhibit lists.

PROCEDURAL HISTORY

While the underlying action was pending before the Eastern District of California, Plaintiff filed the two motions on April 28, 2025. The court denied appointment of counsel, granted additional time to file the Final Pretrial Statement, and ordered filing by May 27, 2025.

DISPOSITION

other

CASES CITED

- Palmer v. Valdez, 560 F.3d 965, 970 (9th Cir. 2009)
- Storseth v. Spellman, 654 F.2d 1349, 1353 (9th Cir. 1981)
- Cano v. Taylor, 739 F.3d 1214, 1218 (9th Cir. 2014)
- Rand v. Rowland, 113 F.3d 1520, 1525 (9th Cir. 1997), rev'd in part on other grounds, 154 F.3d 952, 954 n.1 (9th Cir. 1998)

OPINION

(PC) Haggerty v. Lynch

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

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11 LEE E. HAGGERTY, No. 2:21-cv-01248-DJC-AC

12 Plaintiff, 13 v. ORDER 14

JEFF LYNCH

15 Defendants. 16

17 18 On April 28, 2025, Plaintiff Lee Haggerty filed a Motion for an Extension of Time 19 and a Motion to Appoint Counsel. (Mot. (ECF No. 67).) Specifically, Plaintiff cited to 20 his limited reading and writing abilities and explained that he lost access to his legal 21 materials after the individual who possessed them was placed in administrative 22 segregation. (Id. at 1.) 1 23 Regarding Plaintiff's request for counsel, while the Court sympathizes with the 24 challenges Plaintiff has identified, a person generally has no right to counsel in civil 25 actions. See Palmer v. Valdez, 560 F.3d 965, 970 (9th Cir. 2009) (citing Storseth v. 26 27 1 The Court appreciates efforts by Mr. Lodholz to secure law library access for the Plaintiff. (See ECF No. 28 68 at 2). 1 Spellman, 654 F.2d 1349, 1353 (9th Cir. 1981)). However, under "exceptional 2 circumstances" the court may request counsel for indigent civil litigants pursuant to 28 3 U.S.C. § 1915(e)(1). Id.; see 28 U.S.C. § 1915(e)(1). In making this determination, 4 courts must consider whether (1) there is a likelihood of success on the merits; and (2) 5 the prisoner is unable to articulate his claim in light of the complexity of the legal 6 issues involved. Cano v. Taylor, 739 F.3d 1214, 1218 (9th Cir. 2014). Neither factor is 7 dispositive; rather they must be considered cumulatively. Id. Circumstances most 8 common to prisoners, such as lack of legal education and limited law library access, 9 do not establish exceptional circumstances that would warrant a request for voluntary 10 assistance of counsel. The fact that the pro se litigant would be better served with the 11 assistance of counsel does not necessarily qualify the issues involved as complex. See 12 Rand v. Rowland, 113 F.3d 1520, 1525 (9th Cir. 1997), rev'd in part on other grounds, 13 154 F.3d 952, 954 n.1 (9th Cir. 1998) (acknowledging that any pro se litigant would be 14 better served with the assistance of counsel). Considering these facts in light of the 15 case now pending before the

Court, the Court does not find this to present 16 exceptional circumstances and will deny the request for counsel. 17 Turning to the request for an extension of time, the Court GRANTS Plaintiff 18 additional time to submit his Final Pretrial Statement, and will set the deadline for May 19 27, 2025, the date on which the Court had previously ordered Plaintiff to file his 20 witness and exhibit lists. Defendants may file a written response 7 days after receiving 21 Plaintiff's statement, if they are unable to address those matters at the Final Status 22 Conference. Plaintiff is cautioned, however, that if Plaintiff fails to comply with the 23 Court's prior order to submit witness and exhibit lists by May 27, 2025, the Court 24 may consider imposing evidentiary sanctions in light of the prejudice the failure to 25 timely identify witnesses and exhibits could cause Defendants. Evidentiary sanctions 26 could include an order preventing Plaintiff from calling a witness or introducing an 27 exhibit not identified by Defendants in their Final Pretrial Statement. 28 //// 1 Therefore, IT IS HEREBY ORDERED THAT: 2 1. Plaintiff's Motion to Appoint Counsel is DENIED. 3 2. Plaintiff's Motion for an extension of time is GRANTED. Plaintiff is ordered to 4 file his Final Pretrial Statement on or by May 27, 2025. 5 6 Dated: May 5, 2025 /s/ Daniel J. Calabretta

THE HONORABLE DANIEL J. CALABRETTA

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UNITED STATES DISTRICT JUDGE

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