

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Samuel Latu v. B. Holmes, et al.

Latu v. Holmes · No. 2:20-CV-1518-WBS-DMC-P · Decided August 14, 2025

SUMMARY

The court denied a pro se prisoner’s motion seeking appointment of counsel, discovery relief, and additional time to oppose defendants’ motion for summary judgment. It concluded that exceptional circumstances did not warrant requesting voluntary counsel, the discovery request was procedurally defective and untimely, and further extensions were unwarranted. The court stated that defendants’ summary-judgment motion would be addressed separately through findings and recommendations.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Dennis M. Cota
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	August 14, 2025
DOCKET	2:20-CV-1518-WBS-DMC-P
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff, a pro se prisoner proceeding under 42 U.S.C. § 1983, moved to compel discovery, appoint counsel, and extend the deadline to oppose defendants' motion for summary judgment. The court denied all requested relief.
STANDARD OF REVIEW	The court evaluated the request for appointed counsel under the exceptional-circumstances standard, considering likelihood of success on the merits and the plaintiff's ability to articulate his claims in light of the complexity of the legal issues. The discovery and extension requests were evaluated under the applicable scheduling deadlines and the procedural requirements for those requests.
PRECEDENTIAL VALUE	unknown

TOPICS

- discovery dispute
- summary judgment
- prisoners rights
- section 1983
- civil procedure

PRACTICE AREAS

civil rights litigation

prisoner civil rights

federal civil procedure

QUESTIONS PRESENTED

1. Whether plaintiff established exceptional circumstances warranting the court's request for voluntary assistance of counsel.
2. Whether plaintiff's filing was a proper and timely motion to compel discovery or otherwise justified reopening discovery.
3. Whether plaintiff was entitled to another extension of time to oppose defendants' motion for summary judgment after prior extensions had expired.

HOLDINGS

1. A pro se prisoner's limited English proficiency, lack of legal education, and lack of legal assistance did not establish exceptional circumstances warranting a request for voluntary counsel where the plaintiff could articulate his claims and the case was not factually or legally complex.
2. Plaintiff was not entitled to discovery relief because his filing was not a proper motion to compel and was untimely after the close of discovery; reopening discovery was likewise denied.
3. Plaintiff was not entitled to another extension of time to oppose defendants' summary-judgment motion because he sought the extension after the deadline had expired and had already received multiple extensions.

KEY QUOTATIONS

"Circumstances common to most 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."

(Opinion at 1)

"This request is defective for two reasons. First, it is not a motion to compel in the sense that discovery requests were served, responses served, and Plaintiff is objecting to the sufficiency of responses." (Opinion at 2)

"Having already been provided numerous extensions of time since Defendants' motion was filed in January 2025, the Court declines to provide further extensions particularly where, as here, the request is made after expiration of the applicable deadline." (Opinion at 3)

FACTUAL BACKGROUND

Samuel Latu, a prisoner proceeding without counsel, brought a § 1983 action alleging that defendants violated his constitutional rights by failing to provide adequate protection. He sought appointed counsel based on his limited English proficiency, lack of legal training, and absence of legal assistance. He also sought discovery directly from the court and another extension of time to oppose defendants' pending summary-judgment motion, despite discovery having closed in 2024 and prior extensions having been granted.

PROCEDURAL HISTORY

Plaintiff filed a § 1983 action alleging that defendants failed to provide adequate protection. After discovery closed in 2024, defendants filed a motion for summary judgment on January 9, 2025. The court previously granted plaintiff two extensions of time to oppose that motion, but plaintiff filed the present motion after the applicable deadline had expired. The court denied the motion and stated that defendants' summary-judgment motion would be addressed separately through findings and recommendations.

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)
- Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th Cir. 1986)
- Weygandt v. Look, 718 F.2d 952, 954 (9th Cir. 1983)

OPINION

1 2 3 4 5 6 7 8 IN THE UNITED STATES DISTRICT COURT 9 FOR THE EASTERN
DISTRICT OF CALIFORNIA 10 11 SAMUEL LATU, No. 2:20-CV-1518-WBS-DMC-P 12
Plaintiff, 13 v. ORDER 14 B. HOLMES, et al., 15 Defendants. 16 17 Plaintiff, a prisoner
proceeding pro se, brings this civil rights action pursuant to 18 42 U.S.C. § 1983. Pending before
the Court is Plaintiff’s motion to compel discovery, to appoint 19 counsel, and for an extension of
time.

See ECF No. 58. 20 Turning first to Plaintiff’s request for the appointment of counsel, the United
21 States Supreme Court has ruled that district courts lack authority to require counsel to represent
22 indigent prisoners in § 1983 cases. See Mallard v. United States Dist. Court, 490 U.S. 296, 298
23 (1989).

In certain exceptional circumstances, the district court may request the voluntary 24 assistance of
counsel pursuant to 28 U.S.C. § 1915(e)(1). See Terrell v. Brewer, 935 F.2d 1015, 25 1017 (9th
Cir. 1991); Wood v. Housewright, 900 F.2d 1332, 1335-36 (9th Cir. 1990).

The test 26 for “exceptional circumstances” requires the Court to evaluate the plaintiff’s likelihood
success 27 on the merits and the ability of the plaintiff to articulate his claims on his own in light
of the 28 complexity of the legal issues involved. See Wilborn v. Escalderon, 789 F.2d 1328, 1331
(9th 1 Cir. 1986); Weygandt v. Look, 718 F.2d 952, 954 (9th Cir.

1983). Circumstances common to 2 most prisoners, such as lack of legal education and limited law library access, do not establish 3 exceptional circumstances that would warrant a request for voluntary assistance of counsel. 4 Plaintiff argues that the Court should appoint counsel because he does not speak 5 English well, because he is not an attorney, and because it is not receiving any legal assistance.

6 See ECF No. 58. The Court does not find that these circumstances are exceptional. Further, the 7 record in this case reflects that, despite proceeding pro se, Plaintiff has been able to articulate his 8 claims. The Court also finds that Plaintiff's claim in this case, which asserts that Defendants 9 violated his constitution rights by failing to provide adequate protection, is not factually or legally 10 complex.

11 Plaintiff's motion also seeks to compel Defendants to provide discovery. See ECF 12 No. 58. This request is defective for two reasons. First, it is not a motion to compel in the sense 13 that discovery requests were served, responses served, and Plaintiff is objecting to the sufficiency 14 of responses. Instead, Plaintiff's motion appears to be a discovery request directly to the Court.

15 Second, Plaintiff's motion is untimely because it was filed on July 18, 2025 – long after the close 16 of discovery in 2024. See ECF NO. 44 (scheduling order). To the extent Plaintiff seeks to re- 17 open discovery, that request will be denied for the same reason. 18 Finally, Plaintiff's motion seeks an extension of time to file an opposition to 19 Defendants' pending motion for summary judgment.

See ECF No. 58. This request will be 20 denied. The docket reflects that Defendants' motion for summary judgment was filed on January 21 9, 2025. See ECF No. 51. A few days after Plaintiff's opposition was due, Plaintiff moved for an 22 extension of time on February 14, 2025. See ECF No. 52. Defendants did not oppose, see ECF 23 No. 53, and the Court granted a 30-day extension of time on May 12, 2025, see ECF No. 54.

24 Plaintiff sought a second extension of 60 days on May 27, 2025. See ECF No. 55. The Court 25 granted this request in part on June 3, 2025, providing Plaintiff an additional 30 days from the 26 date of the order to file an opposition brief. See ECF No. 56.

As of July 14 – more than 30 days 27 after the June 3, 2025, order – Plaintiff had not filed any opposition to Defendants' motion for 28 summary judgment. Now, again after expiration of the time provided to file and serve an 1 || opposition brief, Plaintiff again seeks an extension of time. See ECF No. 58.

Having already 2 | been provided numerous extensions of time since Defendants' motion was filed in January 2025, 3 || the Court declines to provide further extensions particularly where, as here, the request is made 4 || after expiration of the applicable deadline. 5 The Court will address Defendants' motion for summary judgment by separate 6 || findings and recommendations.

7 Accordingly, IT IS HEREBY ORDERED that Plaintiff's motion, ECF No. 58, is 8 | DENIED as
to all requests for relief. 9 10 | Dated: August 13, 2025 Ss..c0_, DENNIS M. COTA 2 UNITED
STATES MAGISTRATE JUDGE 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28