

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

Calderon v. Covello

No. 2:23-cv-2049 WBS CSK P (E.D. Cal. May 14, 2025) · No. 2:23-cv-2049 WBS CSK P · Decided May 14,
2025

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 JUAN CARLOS CALDERON, No. 2:23-cv-2049 WBS CSK P 12 Plaintiff,
13 v. ORDER AND FINDINGS AND RECOMMENDATIONS 14 P. COVELLO, et al., 15
Defendants. 16 17 I. INTRODUCTION 18 Plaintiff is a state prisoner, proceeding without
counsel, with a civil rights action pursuant 19 to 42 U.S.C. § 1983.

Pending before the Court is plaintiff’s motion for a preliminary injunction, 20 for appointment of
counsel and for remedy at law. (ECF No. 67.) For the following reasons, 21 plaintiff’s motion for
appointment of counsel is denied.

For the following reasons, this Court 22 recommends that plaintiff’s motion for injunctive relief
and motion for remedy at law, construed 23 as part of plaintiff’s motion for injunctive relief, be
denied. 24 II. BACKGROUND 25 This action proceeds on plaintiff’s amended complaint as to
defendant Mule Creek State 26 Prison (“MCSP”) Correctional Officer Campos.

(ECF No. 10.) Plaintiff alleges that on June 7, 27 2023, defendant Campos violated the Eighth
Amendment by throwing a grenade/bomb under 28 plaintiff’s cell door without cause and failing
to offer plaintiff medical care for the injuries caused 1 by exposure to the grenade/bomb. (Id.) 2
III. MOTION FOR INJUNCTIVE RELIEF AND FOR REMEDY AT LAW 3 In the pending
motion, plaintiff alleges that after the June 7, 2023 incident involving 4 defendant Campos,
plaintiff was denied medical care to diagnose, treat and resolve pain to 5 plaintiff’s lungs, kidneys,
liver, stomach and body.

(ECF No. 67 at 1.) Plaintiff alleges that 6 health care employees and grievance system employees
are interfering with plaintiff receiving 7 health care. (Id.) Plaintiff alleges that the prison grievance
system denied intervention in an evil 8 conspiracy to deny plaintiff all basic needs due to
plaintiff’s 1992 case and nationality. (Id. at 1- 9 2.) Plaintiff also alleges that he is being held in
strict isolation.

(Id. at 2.) Plaintiff alleges that he 10 is being denied access to mail and phone use. (Id.) Plaintiff
alleges that on April 26, 2024, 11 plaintiff was “assaulted or singled out” due to complaining

about inmates assaulting other inmates 12 to please prison guards and make money for drugs. (Id.) Plaintiff lost his television, radio, 13 typewriter, accessories and tablet.

(Id. at 3.) Plaintiff alleges that he was assaulted by prison staff 14 on December 16, 2022. (Id.) Plaintiff alleges that he is dealing with evil torts, invasion of 15 privacy torts, excessive confinement, evil wrongs and conspiracy to cause deadly harm. (Id.) 16 As relief, plaintiff requests that the Court provide plaintiff with access to outside 17 community health to diagnose plaintiff's health problems, transfer plaintiff to Mexico or the 18 Protective Housing Unit at California State Prison-Corcoran, order a federal investigation and 19 order prison officials to stop their offensive conduct.

(Id. at 6-7.) Plaintiff attaches several 20 exhibits to his pending motion which this Court reviewed. (Id. at 9-38.) These exhibits include a 21 declaration by plaintiff, a purported declaration by plaintiff's cellmate, grievances filed by 22 plaintiff and responses to these grievances, and a Reasonable Accommodation Request made by 23 plaintiff. (Id.) 24 This Court construes plaintiff's motion for a remedy at law as part of plaintiff's motion for 25 injunctive relief.

While plaintiff claims in the pending motion that he has been denied medical 26 care for the injuries he allegedly suffered following the June 7, 2023 incident involving defendant 27 Campos, plaintiff seeks medical care from prison officials who are not defendants in this action. 28 This Court is unable to issue an order against individuals who are not parties to a suit pending 1 before it.

See *Zenith Radio Corp. v. Hazeltine Research, Inc.*, 395 U.S. 100, 112 (1969). 2 Accordingly, plaintiff's motion for injunctive relief seeking medical care for the injuries he 3 allegedly suffered following the June 7, 2023 incident should be denied. 4 Plaintiff's remaining requests for injunctive relief are not related to the claims on which 5 this action proceeds against defendant Campos.

For this reason, this Court lacks authority to 6 grant relief as to these requests. See *Pac. Radiation Oncology, LLC v. Queen's Medical Center*, 7 810 F.3d 631, 636 (9th Cir. 2015) ("[T]here must be a relationship between the injury claimed in 8 the motion for injunctive relief and the conduct asserted in the underlying complaint."). 9 Accordingly, plaintiff's motion for injunctive relief as to the requests not related to the claims on 10 which this action proceeds should be denied.

11 IV. MOTION FOR APPOINTMENT OF COUNSEL 12 Plaintiff requests the appointment of counsel. District courts lack authority to require 13 counsel to represent indigent prisoners in section 1983 cases. See *Mallard v. United States Dist. 14 Court*, 490 U.S. 296, 298 (1989).

In exceptional circumstances, the court may request an attorney 15 to voluntarily represent such a plaintiff. See 28 U.S.C. § 1915(e)(1); *Terrell v. Brewer*, 935 F.2d 16 1015, 1017 (9th Cir. 1991); *Wood v. Housewright*, 900 F.2d 1332, 1335-36 (9th Cir. 1990). 17 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.

See *Palmer v. Valdez*, 560 F.3d 965, 2019 (9th Cir. 2009) (district court did not abuse discretion in declining to appoint counsel). The burden of demonstrating exceptional circumstances is on the plaintiff. See *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.

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.
1 | V. CONCLUSION
2 Accordingly, IT IS HEREBY ORDERED that plaintiff’s motion for appointment of 3 || counsel (ECF No. 67) is denied; and 4 IT IS HEREBY RECOMMENDED that plaintiff’s motion for injunctive relief and motion 5 || for remedy at law (ECF No. 67) be denied.

6 These findings and recommendations are submitted to the United States District Judge 7 || assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days 8 | after being served with these findings and recommendations, any party may file written 9 || objections with the court and serve a copy on all parties. Such a document should be captioned 10 | “Objections to Magistrate Judge’s Findings and Recommendations.” Any response to the 11 || objections shall be filed and served within fourteen days after service of the objections.

The 12 || parties are advised that failure to file objections within the specified time may waive the right to 13 || appeal the District Court’s order. *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991). 14 15 || Dated: May 14, 2025 A aA 6 Aan Spe | CHI SOO KIM UNITED STATES MAGISTRATE JUDGE 18 19 20 21 |) Cald2049.pi/2 22 23 24 25 26 27 28