

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

Rafael Salas v. C. Pfeiffer, et al.

Salas v. Pfeiffer · No. 1:21-cv-00669-KES-EPG (PC) · Decided November 25, 2025

SUMMARY

The United States District Court for the Eastern District of California denied without prejudice Rafael Salas’s motion for appointment of pro bono counsel in his 42 U.S.C. § 1983 action. The court found no constitutional right to appointed counsel and concluded that exceptional circumstances were not present because Salas had not shown a likelihood of success on the merits and appeared able to articulate his claims pro se.

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 EASTERN DISTRICT OF
CALIFORNIA 10 11 RAFAEL SALAS, Case No. 1:21-cv-00669-KES-EPG (PC) 12 Plaintiff,
ORDER DENYING PLAINTIFF’S MOTION 13 v. FOR APPOINTMENT OF PRO BONO
COUNSEL 14 C. PFEIFFER, et al., (ECF No. 107). 15 Defendants. 16 Plaintiff Rafael Salas is a
state prisoner proceeding pro se in this civil rights action filed 17 pursuant to 42 U.S.C. § 1983.

This case proceeds on Plaintiff’s Fourteenth Amendment due 18 process claims against
Defendants Thomas, Cortez, and Pfeiffer and Plaintiff’s First 19 Amendment free exercise claims
against Defendants Thomas, Cortez, and Pfeiffer. (ECF No. 20 98). Plaintiff now moves for the
appointment of counsel, generally arguing that he lacks the 21 legal training and resources
necessary to conduct a jury trial himself.

(ECF No. 107). 22 Plaintiff does not have a constitutional right to appointed counsel in this action,
Rand v. 23 Rowland, 113 F.3d 1520, 1525 (9th Cir. 1997), withdrawn in part on other grounds,
154 F.3d 24 952 (9th Cir. 1998), and the Court cannot require an attorney to represent Plaintiff
pursuant to 25 28 U.S.C. § 1915(e)(1). Mallard v. United States District Court for the Southern
District of 26 Iowa, 490 U.S. 296, 298 (1989).

However, in certain exceptional circumstances the Court may 27 28 enn nnn een ene nn OE I NE
OE ERED IED 1 || request the voluntary assistance of counsel pursuant to section 1915(e)(1).
Rand, 113 F.3d at 2 3 Without a reasonable method of securing and compensating counsel, the
Court will seek 4 |! volunteer counsel only in the most serious and exceptional cases.

In determining whether 5 “exceptional circumstances exist, a district court must evaluate both the
likelihood of success of 6 the merits [and] the ability of the [plaintiff] to articulate his claims pro

se in light of the complexity of the legal issues involved.” /d. (citation and internal quotation marks omitted).

The Court will not order appointment of counsel at this time. The Court has reviewed ° the record in this case and is unable to conclude that Plaintiff is likely to succeed on the merits 0 of his claims. Moreover, it appears that Plaintiff can adequately articulate his claims pro se, as demonstrated by his recent ability to partially survive summary judgment.

(ECF No. 98). B Accordingly, IT IS ORDERED that Plaintiffs motion to appoint counsel is denied 4 without prejudice. (ECF No. 107). 15 ll TT Is SO ORDERED. 16 17 || Dated: _November 25, 2025 [spe Fey ig UNITED STATES MAGISTRATE JUDGE 19 20 21 22 23 24 25 26 28 ||! Plaintiff may renew his motion for counsel, but should do so only after the case proceeds, such as after the trial date is confirmed at the pretrial conference with the District Judge.