

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Andrew Vasquez v. Eilya Moghaddam, et al.

Vasquez v. Moghaddam · No. 2:19-cv-1283 TLN AC P · Decided April 3, 2025

SUMMARY

The United States District Court for the Eastern District of California denied a state prisoner’s motion for appointment of counsel under 42 U.S.C. § 1983. The court held that the plaintiff had not demonstrated exceptional circumstances and denied the motion without prejudice to renewal if the case did not settle and proceeded to trial.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Allison Claire
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	April 3, 2025
DOCKET	2:19-cv-1283 TLN AC P
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff, a state prisoner proceeding pro se and in forma pauperis under 42 U.S.C. § 1983, moved for appointment of counsel for trial.
STANDARD OF REVIEW	Appointment of counsel for an indigent prisoner in a § 1983 action is discretionary and requires exceptional circumstances; the court considers the plaintiff's likelihood of success on the merits and ability to articulate claims pro se in light of the complexity of the legal issues.
PRECEDENTIAL VALUE	unpublished, nonprecedential district-court order

TOPICS

- prisoners rights
- section 1983
- civil rights
- civil procedure

PRACTICE AREAS

- civil rights
- prisoner civil rights
- civil procedure

QUESTIONS PRESENTED

1. Whether the court should request voluntary counsel to represent an indigent prisoner in a § 1983 action based on the asserted complexity of the case and the plaintiff's pro se status.
2. Whether plaintiff demonstrated exceptional circumstances sufficient to justify appointment of counsel at that stage of the proceedings.

HOLDINGS

1. A district court lacks authority to require counsel to represent an indigent prisoner in a § 1983 action, but may request an attorney to voluntarily represent the prisoner in exceptional circumstances.
2. Plaintiff failed to meet his burden of demonstrating exceptional circumstances warranting appointment of counsel at that time; lack of legal education and pro se status, without more, were insufficient.

KEY QUOTATIONS

“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.” (at 1)

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

“plaintiff's motion for the appointment of counsel (ECF No. 85) is denied without prejudice to renewal if the case does not settle and proceeds to trial.” (at 2)

FACTUAL BACKGROUND

Andrew Vasquez is a state prisoner proceeding without counsel in a § 1983 action. He sought appointment of counsel for trial, asserting that the case was complex and that he could not obtain counsel on his own. The case was scheduled for a settlement conference, and the court found that Vasquez had not shown exceptional circumstances warranting a request for voluntary counsel.

PROCEDURAL HISTORY

Plaintiff requested appointment of counsel, asserting that the case was complex and that he needed professional assistance to conduct the trial. The district court denied the motion without prejudice because plaintiff failed to demonstrate exceptional circumstances, while allowing renewal if the case did not settle and proceeded to trial.

DISPOSITION

other

CASES CITED

- Mallard v. United States District 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)

- Palmer v. Valdez, 560 F.3d 965, 970 (9th Cir. 2009)

OPINION

(PC) Vasquez v. Wheeler

PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10

11 ANDREW VASQUEZ, No. 2:19-cv-1283 TLN AC P

12 Plaintiff, 13 v. ORDER 14 EILYA MOGHADDAM, et al., 15 Defendants. 16 17 Plaintiff is a
state prisoner proceeding without counsel in an action brought under 42 18 U.S.C. § 1983.
Plaintiff requests that the court appoint counsel for trial. ECF No. 85. Plaintiff 19 asserts that he
needs counsel because his case is complex and requires a professional to conduct 20 the trial. Id. at
1, 11. Plaintiff states “Plaintiff has done all he can to get counsel on his own but 21 as a in forma
pauperis and in pro se litigant in this is a close to unachievable task on my own only 22 with the
intervention of the Court to appoint counsel will this meritorious case be given it 23 opportunity to
seek justice at jury trial.” Id. at 11 (spelling corrected). 24 District courts lack authority to require
counsel to represent indigent prisoners in section 25 1983 cases. Mallard v. United States Dist.
Court, 490 U.S. 296, 298 (1989). However, in 26 exceptional circumstances, the court may request
an attorney to voluntarily represent such a 27 plaintiff. See 28 U.S.C. § 1915(e)(1); Terrell v.
Brewer, 935 F.2d 1015, 1017 (9th Cir. 1991); 28 Wood v. Housewright, 900 F.2d 1332, 1335-36
(9th Cir. 1990). When determining whether 1 | “exceptional circumstances” exist, the court must
consider plaintiff's likelihood of success on the 2 || merits as well as the ability of the plaintiff to
articulate his claims pro se in light of the complexity 3 || of the legal issues involved. Palmer v.
Valdez, 560 F.3d 965, 970 (9th Cir. 2009) (district court 4 || did not abuse discretion in declining to
appoint counsel). The burden of demonstrating 5 || exceptional circumstances is on the plaintiff. Id.
Circumstances common to most prisoners, such 6 || as lack of legal education, do not establish
exceptional circumstances that warrant a request for 7 || voluntary assistance of counsel. 8 Having
considered the factors under Palmer and the fact that this case is now set for a 9 || settlement
conference on May 28, 2025, the court finds that plaintiff has failed to meet his burden 10 | of
demonstrating exceptional circumstances warranting the appointment of counsel at this time. 11
Accordingly, IT IS HEREBY ORDERED that plaintiff’s motion for the appointment of 12 ||
counsel (ECF No. 85) is denied without prejudice to renewal if the case does not settle and 13 ||
proceeds to trial. 14 | DATED: April 3, 2025 15 ~ 16 Chthwen— Clare

ALLISON CLAIRE

17 UNITED STATES MAGISTRATE JUDGE

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