

**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

OPINION

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 18 19 20 21 22 23 24 25 26 27 28