

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Brandon Miguel Escamilla v. A. Oboyle, et al.

No. 2:22-cv-2038 KJM AC P, United States District Court for the Eastern District of California (March 16, 2023)

SUMMARY

The United States District Court for the Eastern District of California denied Brandon Miguel Escamilla’s renewed request for appointment of counsel in his prisoner civil rights action. The court held that his mental health condition, administrative segregation, and potential loss of inmate assistance did not establish the exceptional circumstances required for voluntary appointment of counsel under 28 U.S.C. § 1915(e)(1).

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	March 16, 2023
DOCKET	2:22-cv-2038 KJM AC P
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff filed a renewed request for appointment of counsel in his prisoner civil-rights action.
STANDARD OF REVIEW	Appointment of counsel for an indigent prisoner in a 42 U.S.C. § 1983 action is discretionary and requires a showing of exceptional circumstances, evaluated by considering the likelihood of success on the merits and the plaintiff's ability to articulate claims pro se in light of the complexity of the legal issues.
PRECEDENTIAL VALUE	unpublished and nonprecedential district court order
PARTIES	Brandon Miguel Escamilla v. A. Oboyle, et al.

TOPICS

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

PRACTICE AREAS

civil rights

prisoner civil rights

civil procedure

QUESTIONS PRESENTED

1. Whether plaintiff demonstrated exceptional circumstances warranting the court's request for voluntary appointment of counsel under 28 U.S.C. § 1915(e)(1).
2. Whether plaintiff's mental-health condition, administrative-segregation housing, difficulties investigating the case, and loss of assistance from another inmate established an inability to litigate pro se.

HOLDINGS

1. A district court may request voluntary assistance of counsel under 28 U.S.C. § 1915(e)(1) only when exceptional circumstances are shown; plaintiff did not demonstrate such circumstances.
2. Worsening mental health supported by records, administrative segregation, difficulty obtaining evidence, and anticipated loss of inmate assistance did not establish exceptional circumstances because plaintiff remained able to articulate his claims and had no pending deadlines.

KEY QUOTATIONS

“When determining whether ‘exceptional circumstances’ exist, a court must consider ‘the 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)

“For all these reasons, plaintiff has not shown the existence of extraordinary circumstances warranting the appointment of counsel.” (at 2)

FACTUAL BACKGROUND

Plaintiff asserted that worsening mental health, administrative segregation, difficulty obtaining evidence and investigating his claims, and the anticipated transfer of an inmate who had been assisting him made appointment of counsel necessary. He submitted medical records confirming a mental-health diagnosis and related difficulties, but the court found that the records did not show he was unable to pursue the case without assistance. The court also noted that plaintiff had articulated his claims adequately, could potentially obtain assistance elsewhere, and had no current deadlines because the case was stayed.

PROCEDURAL HISTORY

The district court had previously denied plaintiff's request for counsel and directed him to provide medical documentation if he relied on mental-health conditions. Plaintiff filed another request supported by medical records and additional grounds. The case had been referred to the Post-Screening ADR Project and stayed, with no pending deadlines, and the court denied the renewed request.

DISPOSITION

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)
- Palmer v. Valdez, 560 F.3d 965, 970 (9th Cir. 2009)
- Weygandt v. Look, 718 F.2d 952, 954 (9th Cir. 1983)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 BRANDON MIGUEL ESCAMILLA, No. 2:22-cv-2038 KJM AC P 12
Plaintiff, 13 v. ORDER 14 A. OBOYLE, et al., 15 Defendants. 16 17 Plaintiff has filed another
request for the appointment of counsel. ECF No. 30.

The 18 United States Supreme Court has ruled that district courts lack authority to require counsel
to 19 represent indigent prisoners in § 1983 cases. Mallard v. United States Dist. Court, 490 U.S.
296, 20 298 (1989).

In certain exceptional circumstances, the district court may request the voluntary 21 assistance of
counsel pursuant to 28 U.S.C. § 1915(e)(1). Terrell v. Brewer, 935 F.2d 1015, 1017 22 (9th Cir.
1991); Wood v. Housewright, 900 F.2d 1332, 1335-36 (9th Cir. 1990). 23 “When determining
whether ‘exceptional circumstances’ exist, a court must consider ‘the 24 likelihood of success on
the merits as well as the ability of the [plaintiff] to articulate his claims 25 pro se in light of the
complexity of the legal issues involved.’” Palmer v. Valdez, 560 F.3d 965, 26 970 (9th Cir.

2009) (quoting Weygandt v. Look, 718 F.2d 952, 954 (9th Cir. 1983)). The burden 27 of
demonstrating exceptional circumstances is on the plaintiff. Id. Circumstances common to 28 most
prisoners, such as lack of legal education and limited law library access, do not establish 1 |
exceptional circumstances that would warrant a request for voluntary assistance of counsel.

2 Plaintiff seeks appointment of counsel on the grounds that his mental health has worsened, 3 ||
resulting in an increase in his level of care; his housing assignment in administrative segregation 4
|| prevents him from obtaining favorable evidence and investigating his claims; and the inmate
who 5 || has been assisting him is going to be transferred. ECF No. 30 at 1-5.

However, these 6 || circumstances are common to many prisoners and therefore do not demonstrate
the existence of 7 || extraordinary circumstances warranting the appointment of counsel. 8 In
denying plaintiff's previous motion for counsel, the court advised that if he was seeking 9 ||

appointment of counsel based upon his mental health conditions, he must provide medical 10 || documents supporting his claimed impairments.

ECF No. 21 at 2. While plaintiff has provided 11 || medical records confirming his mental health diagnosis and that he suffers some difficulties as a 12 || result (ECF No. 30 at 7-14), these records do not establish that he is so impaired that he is unable 13 || to pursue this case without assistance. Many inmates with mental illness are able to adequately 14 | articulate their claims without assistance, and he has thus far plaintiff has demonstrated that he is 15 || capable of doing so.

Although plaintiff asserts that he has been obtaining assistance from another 16 || inmate who is being transferred, it has yet to be established that he will be unable to find 17 || assistance elsewhere in the event the individual assisting him is in fact transferred.

Finally, this 18 || case was recently referred to the Post-Screening ADR Project and is currently stayed. ECF No. 19 | 27. As a result, plaintiff has no pending deadlines. For all these reasons, plaintiff has not shown 20 || the existence of extraordinary circumstances warranting the appointment of counsel. 21 Accordingly, IT IS HEREBY ORDERED that plaintiff's request for the appointment of 22 || counsel (ECF No. 30) is DENIED.

23 || DATED: March 15, 2023 A / ~ 24 ALLISON CLAIRE 95 UNITED STATES MAGISTRATE
JUDGE 26 27 28