

**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)

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**OPINION**

(PC) Escamilla v. Oboyle

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

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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 plaintiffs 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

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