

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Edgar Agtarap v. Bailey, et al.

Agtarap · No. 1:25-cv-01534-KES-EPG · Decided December 22, 2025

SUMMARY

The United States District Court for the Eastern District of California denied Edgar Agtarap’s motion for appointment of counsel in his pro se civil rights action. The court found no exceptional circumstances because the complaint adequately articulated the claims, the legal issues were not unusually complex, and it was too early to assess the likelihood of success.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	December 22, 2025
DOCKET	1:25-cv-01534-KES-EPG
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff, proceeding pro se in a removed civil-rights action under 42 U.S.C. § 1983, moved for appointment of counsel. The district court denied the motion without prejudice.
STANDARD OF REVIEW	Appointment of counsel for an indigent civil litigant is evaluated under the exceptional-circumstances standard, considering both 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	unknown
PARTIES	Edgar Agtarap v. Bailey, et al.

TOPICS

- civil procedure
- section 1983
- civil rights
- constitutional law

PRACTICE AREAS

- civil procedure
- civil rights
- constitutional law

QUESTIONS PRESENTED

1. Whether the court should appoint counsel or request voluntary counsel for a pro se plaintiff under 28 U.S.C. § 1915(e)(1).
2. Whether exceptional circumstances existed based on the likelihood of success on the merits, the plaintiff's ability to articulate his claims, and the complexity of the legal issues.

HOLDINGS

1. A plaintiff in this civil-rights action has no constitutional right to appointed counsel, and the court may not require an attorney to represent the plaintiff under 28 U.S.C. § 1915(e)(1).
2. Exceptional circumstances did not warrant requesting voluntary counsel because plaintiff adequately articulated his claims, the legal issues were not unusually complex, and the case was at too preliminary a stage to establish a likelihood of success on the merits.

KEY QUOTATIONS

“in certain exceptional circumstances the Court may request the voluntary assistance of counsel pursuant to section 1915(e)(1).” (1)

“In determining whether “exceptional circumstances exist, a district court must evaluate both the likelihood of success of the merits [and] the ability of the [plaintiff] to articulate his claims pro se in light of the complexity of the legal issues involved.”” (1)

FACTUAL BACKGROUND

Plaintiff Edgar Agtarap alleged excessive use of force and an unlawful search of private property under the Fourth Amendment, arising from defendants' alleged placement of a red "Stop Work" tag on a shed behind his fence. He sought appointed counsel based on his legal deafness, type two diabetes, inability to afford counsel, and the asserted difficulty of litigating the case. The court found that his typewritten complaint clearly articulated the relevant facts and legal claims, that the legal issues were not extremely complex, and that it was too early to assess his likelihood of success.

PROCEDURAL HISTORY

The action was removed from the Superior Court of the State of California, County of Kings, on November 10, 2025. Plaintiff filed a motion for appointment of counsel on December 16, 2025. The district court denied the motion, finding that the case did not present exceptional circumstances warranting a request for voluntary counsel.

DISPOSITION

other

CASES CITED

- Rand v. Rowland, 113 F.3d 1520, 1525 (9th Cir. 1997), withdrawn in part on other grounds, 154 F.3d 952 (9th Cir. 1998)
- Mallard v. United States District Court for the Southern District of Iowa, 490 U.S. 296, 298 (1989)

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