

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

OPINION

Agtarap

PER CURIAM.

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UNITED STATES DISTRICT COURT

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EASTERN DISTRICT OF CALIFORNIA

9 10 EDGAR AGTARAP, Case No. 1:25-cv-01534-KES-EPG 11 12 Plaintiff,

13 v. ORDER DENYING MOTION FOR

APPOINTMENT OF COUNSEL

14 BAILEY, et al., 15 Defendants. (ECF No. 29) 16 Plaintiff Edgar Agtarap proceeding pro se in
this civil rights action filed pursuant to 42 17 U.S.C. § 1983. (ECF No. 1). This action was
removed from the Superior Court of the State of 18 California, County of Kings on November 10,
2025. 19 Before the Court is Plaintiff's Motion for Appointment of Counsel filed on December
16, 20 2025 (ECF No. 4). Plaintiff cites several reasons why the Court should appoint him
counsel, such 21 as being legally deaf, suffering from type two diabetes, and being unable to
afford counsel. (Id., 22 p. 1). 23 Plaintiff does not have a constitutional right to appointed counsel
in this action, *Rand v. 24 Rowland*, 113 F.3d 1520, 1525 (9th Cir. 1997), withdrawn in part on
other grounds, 154 F.3d 952 25 (9th Cir. 1998), and the Court cannot require an attorney to
represent Plaintiff pursuant to 28 26 U.S.C. § 1915(e)(1). *Mallard v. United States District Court*
for the Southern District of Iowa, 27 28 1 | 490 U.S. 296, 298 (1989). However, in certain
exceptional circumstances the Court may request 2 | the voluntary assistance of counsel pursuant
to section 1915(e)(1). *Rand*, 113 F.3d at 1525. 3 Without a reasonable method of securing and
compensating counsel, the Court will seek 4 || volunteer counsel only in the most serious and
exceptional cases. In determining whether 5 | "exceptional circumstances exist, a district court
must evaluate both the likelihood of success of 6 the merits [and] the ability of the [plaintiff] to
articulate his claims pro se in light of the 7 complexity of the legal issues involved." /d. (citation
and internal quotation marks omitted). 8 The Court finds that appointment of counsel is not
warranted here. Plaintiff's typewritten 9 complaint clearly articulates the facts and legal claims at
issue. The legal issues involved are not extremely complex, and Plaintiff is able to articulate those
claims adequately. Specifically, 8 Plaintiff alleges claims for excessive use of force and an

unlawful search of private property under the Fourth Amendment, stemming from Defendants allegedly placing a red tag "STOP WORK" to 12 Stop Work" on Plaintiff's shed that is located behind his fence. (ECF No. 1). Further, it is too 13 early to determine Plaintiff's likelihood of success on the merits or whether the case will proceed to trial. The case was recently removed to federal Court and an initial scheduling conference is set 15 for February 5, 2026. (ECF No. 2). At this preliminary stage of the case, there is no indication of 16 | the presence of complex legal issues warranting a finding of exceptional circumstances in which 17 | the Court may request the voluntary assistance of counsel pursuant to § 1915(e)(1). *Rand*, 113 18 | F.3d at 1525 (holding that while the appellant might have fared better with counsel during 19 | discovery, this is not the test). 20 Plaintiff's complaint also alleges that he was able to hire a law firm to represent Plaintiff 21 | regarding these issues. (ECF No. 1, at p. 10). 22 Accordingly, the Court will deny Plaintiff's request for counsel (ECF No. 4) without 23 | Prejudice. IT IS SO ORDERED. 24 25 Dated: _ December 22, 2025 [sf heey

UNITED STATES MAGISTRATE JUDGE

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