

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA**

Ronald Dean Yandell v. G. Newsome, et al.

Yandell v. Newsome · No. No. 2:25-CV-1049-DJC-DMC-P · Decided August 22, 2025

SUMMARY

The United States District Court for the Eastern District of California denied a pro se prisoner’s motion for appointment of counsel in a 42 U.S.C. § 1983 action. The court found no exceptional circumstances because the plaintiff was able to articulate his claims, the excessive-force allegations were not legally or factually complex, and the case was at an early stage without a demonstrated likelihood of success.

OPINION

(PC) Yandell v. Newsome

PER CURIAM.

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8 IN THE UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

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11 RONALD DEAN YANDELL, No. 2:25-CV-1049-DJC-DMC-P

12 Plaintiff, 13 v. ORDER 14 G. NEWSOME, et al., 15 Defendants. 16 17 Plaintiff, a prisoner
proceeding pro se, brings this civil rights action pursuant to 18 42 U.S.C. § 1983. Pending before
the Court is Plaintiff's motion for the appointment of counsel. 19 See ECF No. 16. 20 The United
States Supreme Court has ruled that district courts lack authority to 21 require counsel to represent
indigent prisoners in § 1983 cases. See *Mallard v. United States Dist. 22 Court*, 490 U.S. 296, 298
(1989). In certain exceptional circumstances, the court may request the 23 voluntary assistance of
counsel pursuant to 28 U.S.C. § 1915(e)(1). See *Terrell v. Brewer*, 935 24 F.2d 1015, 1017 (9th
Cir. 1991); *Wood v. Housewright*, 900 F.2d 1332, 1335-36 (9th Cir. 1990). 25 A finding of
“exceptional circumstances” requires an evaluation of both the likelihood of success 26 on the
merits and the ability of the plaintiff to articulate his claims on his own in light of the 27
complexity of the legal issues involved. See *Terrell*, 935 F.2d at 1017. Neither factor is 28
dispositive, and both must be viewed together before reaching a decision. See *id.* In *Terrell*, the 1 |
Ninth Circuit concluded the district court did not abuse its discretion with respect to appointment
2 | of counsel because: 3 ... *Terrell* demonstrated sufficient writing ability and legal knowledge to
articulate his claim. The facts he alleged and the issues he raised were not 4 of substantial
complexity. The compelling evidence against *Terrell* made it 5 extremely unlikely that he would

succeed on the merits. ‘ Id. at 1017. 7 In the present case, the Court does not at this time find the required exceptional 8 | circumstances. Plaintiff argues that appointment of counsel is warranted because he is indigent, 9 || and the assistance of counsel will result in the proceedings moving forward more efficiently and 10 || effectively. See ECF No. 16. Plaintiff's indigency, however, is not an exceptional circumstance. 11 || Additionally, a review of the docket reflects that Plaintiff has been able to articulate his claims on 12 || his own. The claims in this case involve allegations of excessive force and are neither legally nor 13 || factually complex. Finally, at this early stage of the proceedings before the sufficiency of 14 | Plaintiff's complaint has been addressed by the Court, Plaintiff cannot show any particular 15 || likelihood of success on the merits. 16 Accordingly, IT IS HEREBY ORDERED that Plaintiff's motion for the 17 || appointment of counsel, ECF No. 16, is denied. 18 19 | Dated: August 21, 2025 Co

20 DENNIS M. COTA

7] UNITED STATES MAGISTRATE JUDGE

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