

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Carter v. Murphy

Carter · No. 2:24-cv-0165 CKD P · Decided May 7, 2025

SUMMARY

The United States District Court for the Eastern District of California denies without prejudice a state prisoner’s motion for appointment of counsel in a 42 U.S.C. § 1983 action. The court also denies without prejudice the plaintiff’s motion in limine because it is unclear whether the case will proceed to trial.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Carolyn K. Delaney
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	May 7, 2025
DOCKET	2:24-cv-0165 CKD P
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff, a state prisoner proceeding pro se under 42 U.S.C. § 1983, moved for appointment of counsel and requested exclusion of certain evidence at trial. The district court denied both requests without prejudice.
STANDARD OF REVIEW	The court applied the exceptional-circumstances standard governing requests for voluntary appointment of counsel in prisoner § 1983 actions, considering the plaintiff's likelihood of success on the merits and ability to articulate claims in light of the complexity of the legal issues.
PRECEDENTIAL VALUE	unpublished and nonprecedential district court order
PARTIES	Nathanael James Carter, Jr. v. D. Murphy

TOPICS

- prisoners rights
- section 1983
- motion in limine
- civil procedure

PRACTICE AREAS

civil procedure

civil rights

prisoner civil rights

remedies

QUESTIONS PRESENTED

1. Whether the court should request an attorney to voluntarily represent the indigent prisoner under the exceptional-circumstances standard.
2. Whether the court should exclude specified evidence before it was determined that the case would proceed to trial.

HOLDINGS

1. A district court lacks authority to require counsel to represent an indigent prisoner in a § 1983 action, and the plaintiff did not demonstrate exceptional circumstances warranting the court's request for voluntary representation.
2. The request to exclude evidence was denied without prejudice because it was unclear whether, or when, the matter would proceed to trial.

KEY QUOTATIONS

“When determining whether “exceptional circumstances” exist, the court must consider plaintiff’s 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)

“Circumstances common to most prisoners, such as lack of legal education and limited law library access, do not establish exceptional circumstances that warrant a request for voluntary assistance of counsel.” (at 2)

FACTUAL BACKGROUND

Plaintiff is a state prisoner proceeding pro se in a § 1983 action. He requested appointment of counsel and asked the court to exclude certain evidence at trial. The court found that he had not demonstrated exceptional circumstances and that any evidentiary ruling was premature because it was unclear whether the case would proceed to trial.

PROCEDURAL HISTORY

Carter brought a § 1983 action in the Eastern District of California and moved for appointment of counsel and exclusion of evidence. The court determined that he had not shown exceptional circumstances warranting a request for voluntary counsel and that his evidentiary request was premature because it was unclear whether the case would proceed to trial.

DISPOSITION

other

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)

OPINION

(PC) Carter v. Murphy

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10

11 NATHANAEL JAMES CARTER, JR., No. 2:24-cv-0165 CKD P

12 Plaintiff, 13 v. ORDER

14 D. MURPHY,

15 Defendants. 16

17 Plaintiff is a state prisoner proceeding pro se in an action brought under 42 U.S.C. § 1983. 18
 Plaintiff requests that the court appoint counsel. District courts lack authority to require counsel 19
 to represent indigent prisoners in section 1983 cases. Mallard v. United States Dist. Court, 490 20
 U.S. 296, 298 (1989). In exceptional circumstances, the court may request an attorney to 21
 voluntarily represent such a plaintiff. See 28 U.S.C. § 1915(e)(1). Terrell v. Brewer, 935 F.2d 22
 1015, 1017 (9th Cir. 1991); Wood v. Housewright, 900 F.2d 1332, 1335-36 (9th Cir. 1990). 23
 When determining whether “exceptional circumstances” exist, the court must consider plaintiff’s
 24 likelihood of success on the merits as well as the ability of the plaintiff to articulate his claims
 pro 25 se in light of the complexity of the legal issues involved. Palmer v. Valdez, 560 F.3d 965,
 970 26 (9th Cir. 2009) (district court did not abuse discretion in declining to appoint counsel). The
 27 burden of demonstrating exceptional circumstances is on the plaintiff. Id. Circumstances 28 ////
 1 | common to most prisoners, such as lack of legal education and limited law library access, do
 not 2 || establish exceptional circumstances that warrant a request for voluntary assistance of
 counsel. 3 Having considered the factors under Palmer, the court finds that plaintiff has failed to 4
 | meet his burden of demonstrating exceptional circumstances warranting the appointment of 5 ||
 counsel at this time. 6 Plaintiff has also asked that certain evidence be excluded at trial. Since it is
 not clear that 7 || this matter will proceed to trial and, if so, when, that request will be denied
 without prejudice to 8 || renewal after a date for trial has been set. 9 Accordingly, IT IS HEREBY
 ORDERED that: 10 1. Plaintiffs motion for the appointment of counsel (ECF No. 36) is DENIED
 without 11 || prejudice. 12 2. Plaintiffs motion in limine (ECF No. 36) is DENIED without
 prejudice. ANI fe fo. AG

4 CAROLYNK.DELANEY

15 UNITED STATES MAGISTRATE JUDGE

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