UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA

Sylvia Nicole v. T2M Investments, LLC

No. 1:24-cv-00562-JLT (E.D. Cal. Mar. 10, 2025) · No. 1:24-cv-00562-JLT · Decided March 11, 2025

SUMMARY

The United States District Court for the Eastern District of California denied Sylvia Nicole's third motion to appoint counsel in her bankruptcy appeal. The court found that her assertions regarding fraud, unresolved issues, and alleged legal errors were conclusory and that she had not shown either a likelihood of success on the merits or an inability to litigate the appeal pro se.

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	March 11, 2025
DOCKET	1:24-cv-00562-JLT
DISPOSITION	other
PROCEDURAL POSTURE	Appellant appealed a bankruptcy-court decision and filed a third motion for appointment of counsel in the district-court bankruptcy appeal. The district court denied the motion because the appeal was not yet ripe and appellant had not shown exceptional circumstances warranting appointed counsel.
STANDARD OF REVIEW	Discretionary determination under 28 U.S.C. § 1915(e)(1); appointment of counsel is permitted only upon a showing of exceptional circumstances.
PRECEDENTIAL VALUE	Unpublished district-court order; precedential status not established in the source metadata.
PARTIES	Sylvia Nicole v. T2M Investments, LLC

TOPICS

bankruptcy · appellate procedure · civil procedure

PRACTICE AREAS

Bankruptcy Civil procedure Appellate procedure

QUESTIONS PRESENTED

1. Whether the district court should appoint counsel for an indigent litigant in a bankruptcy appeal under 28 U.S.C. § 1915(e)(1).

HOLDINGS

1. Appointment of counsel was not warranted because Nicole failed to demonstrate exceptional circumstances, including a likelihood of success on the merits or an inability to articulate her claims pro se in light of the complexity of the issues.

KEY QUOTATIONS

> *"When determining whether exceptional circumstances exist, a court must consider the likelihood of success on the merits as well as the ability of the petitioner to articulate his claims pro se in light of the complexity of the legal issues involved."* (at 1-2)

> *"Neither of these considerations is dispositive and instead must be viewed together."* (at 2)

FACTUAL BACKGROUND

Nicole asserted that T2M Investments and its witnesses committed fraud and perjury during a three-day bankruptcy trial, that the bankruptcy court failed to address a mortgage-fraud cause of action, and that the parties offered conflicting interpretations of a written settlement agreement. She also claimed that numerous issues remained unresolved and that the bankruptcy court improperly credited T2M's testimony. The district court found these assertions conclusory and determined that Nicole had not shown either a likelihood of success or an inability to articulate her claims pro se.

PROCEDURAL HISTORY

Sylvia Nicole appealed a decision of the United States Bankruptcy Court for the Eastern District of California in bankruptcy case No. 21-10679 and adversary proceeding No. 21-01015-A. Before the appeal was noticed, she moved for appointment of counsel in the adversary proceeding; the bankruptcy court transferred the motion to the district court because it was unclear whether the bankruptcy court had authority to decide it. The district court previously denied two requests for counsel, and it denied Nicole's third motion after finding her merits assertions conclusory and finding that she had demonstrated an ability to articulate her claims pro se.

DISPOSITION

other

CASES CITED

- Palmer v. Valdez, 560 F.3d 965, 970 (9th Cir. 2009)
- Sariol v. Fitzgerald, No. C16-0835JLR, 2016 WL 8808819, at *1 (W.D. Wash. June 27, 2016)

- Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th Cir. 1986)
