

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Williams v. Castro

No. 1:20-cv-01617-SAB (PC) (E.D. Cal. Mar. 14, 2023) · No. 1:20-cv-01617-SAB (PC) · Decided March 15,
2023

OPINION

(PC) Williams v. Castro

PER CURIAM.

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UNITED STATES DISTRICT COURT

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EASTERN DISTRICT OF CALIFORNIA

9 10 ROBERT CURTIS WILLIAMS, III Case No. 1:20-cv-01617-SAB (PC) 11 Plaintiff, ORDER
DENYING PLAINTIFF’S

REQUEST FOR APPOINTMENT OF

12 v. IMPARTIAL EXPERT WITNESS

13 CASTRO, et al., (ECF No. 78) 14 Defendants. 15 16 17 Plaintiff Robert Curtis Williams, III is
proceeding pro se and in forma pauperis in this 18 civil rights action filed pursuant to 42 U.S.C. §
1983. 19 As part of his untimely pretrial statement and on the morning of jury trial, Plaintiff seeks
20 the appointment of an impartial expert witness to testify at trial as to his mental health
diagnosis. 21 (ECF No. 78.) However, Plaintiff’s request is both untimely and not justified. 22
First, Plaintiff’s request, brought by way of pretrial statement, is untimely. Indeed, 23 Plaintiff’s
pretrial statement was initially due December 30, 2022, and was not filed until
24 February 21, 2023. (ECF Nos. 49, 78.)

25 Second, Federal Rule of Evidence 706 allows a court to appoint an expert witness on the 26
motion of a party. Fed. R. Evid. 706(a). Generally, it is appropriate to appoint an expert 27 witness
when it will assist the trier of fact to decide a fact at issue or understand evidence that is scientific,
technical, or requires specialized knowledge. *Arellano Jr. v. Hodge*, 2017 WL 1 | 2692875, at *1
(S.D. Cal. Jun. 22, 2017) (citations and quotations omitted). “Expert 2 | witnesses should not be
appointed where they are not necessary or significantly useful for the 3 | trier of fact to
comprehend a material issue in a case.” *Id.* (citing *Gorton v. Todd*, 793 F.Supp.2d 4 | 1171, 1181
(E.D. Cal. 2011)). “[E]xpert witnesses should not be appointed to serve as an advocate 5 | for a
party.” *Id.* (citations omitted). Finally, “Rule 706 is not a means to avoid the in forma 6 | pauperis
statute, 28 U.S.C. § 1915, and its prohibition against using public funds to pay the 7 | expenses of
witnesses in a § 1983 prisoner rights action.” *Id.* (citing *Dixon v. Ylst*, 990 F.2d 478, 8 | 480 (9th
Cir. 1993)). Plaintiff fails to establish that a neutral expert is be required to assist the 9 | trier of

fact in this matter as he seeks appointment on expert for his own benefit. Plaintiff has 10 | failed to demonstrate and the Court does not find this action is so complex that requires 11 | appointment of a neutral expert to assist the trier of fact. Plaintiff does not explain how his 12 | failure to protect and equal protection claims are factually or legally complex. Accordingly, 13 | Plaintiff's motion for appointment of an impartial expert witness is denied. 14

15 IT IS SO ORDERED. FA. ee

16 | Dated: _ March 14, 2023

UNITED STATES MAGISTRATE JUDGE

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