

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

Martinez v. Heath, et al.

Martinez · No. 2:24-cv-0516-JDP (P) · Decided October 6, 2025

SUMMARY

The United States District Court for the Eastern District of California denied, without prejudice, Fred Martinez’s motion for appointment of counsel in his 42 U.S.C. § 1983 action against Heath and other defendants. The court concluded that Martinez had not demonstrated exceptional circumstances warranting a request for voluntary representation under 28 U.S.C. § 1915(e)(1).

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 FRED MARTINEZ, Case No. 2:24-cv-0516-JDP (P) 12 Plaintiff, 13 v.
ORDER 14 HEATH, et al., 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 common to most prisoners, such as lack of legal education and
limited law library access, do not 1 | establish exceptional circumstances that warrant a request for
voluntary assistance of counsel.

2 Having considered the factors under Palmer, the court finds that plaintiff has failed to 3 | meet
his burden of demonstrating exceptional circumstances warranting the appointment of 4 | counsel
at this time. 5 Accordingly, IT IS HEREBY ORDERED that plaintiff's motion for the appointment
of 6 | counsel, ECF No. 37, is DENIED without prejudice. 7 | IT IS SO ORDERED.

9 | Dated: _ October 6, 2025 __ gene Ws JEREMY D. PETERSON 10 UNITED STATES
MAGISTRATE JUDGE 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28

Retrieved from lawtools.ai · <https://lawtools.ai/cases/federal/united-states-district-court-for-the-eastern-district-of-cal/2025/martinez-v-heath-et-al-wr6cs6q0>