

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF  
CALIFORNIA

Ryan David Anderson v. Robert M. Van Gerwen, et al.

Anderson v. Van Gerwen · No. 2:20-cv-0246 DC SCR P · Decided December 1, 2025

SUMMARY

The United States District Court for the Eastern District of California denied without prejudice Ryan David Anderson’s motion to appoint counsel and postpone his deposition in his 42 U.S.C. § 1983 excessive-force action. The court held that indigency, incarceration, limited legal training, and restricted research access did not establish exceptional circumstances, and that the plaintiff’s generalized concerns about deposition questioning and trial disparities were insufficient.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                       |
|-----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States District Court for the Eastern District of California                                                                                                                                                                                   |
| WRITING FOR THE COURT | Sean C. Riordan                                                                                                                                                                                                                                       |
| JURISDICTION          | United States District Court for the Eastern District of California                                                                                                                                                                                   |
| DECIDED               | December 1, 2025                                                                                                                                                                                                                                      |
| DOCKET                | 2:20-cv-0246 DC SCR P                                                                                                                                                                                                                                 |
| DISPOSITION           | other                                                                                                                                                                                                                                                 |
| PROCEDURAL POSTURE    | Plaintiff, an incarcerated pro se litigant proceeding in forma pauperis under 42 U.S.C. § 1983, moved for appointment of counsel and postponement of his deposition.                                                                                  |
| STANDARD OF REVIEW    | The court applied the exceptional-circumstances standard under 28 U.S.C. § 1915(e)(1), evaluating the likelihood of success on the merits and the plaintiff's ability to articulate his claims pro se in light of the complexity of the legal issues. |
| PRECEDENTIAL VALUE    | Unpublished district-court order; persuasive rather than precedential                                                                                                                                                                                 |
| PARTIES               | Ryan David Anderson v. Robert M. Van Gerwen, et al.                                                                                                                                                                                                   |

TOPICS

- prisoners rights
- civil rights
- section 1983
- discovery dispute
- civil procedure

PRACTICE AREAS

## QUESTIONS PRESENTED

1. Whether plaintiff established exceptional circumstances warranting the court's request for voluntary appointment of counsel under 28 U.S.C. § 1915(e)(1).
2. Whether plaintiff's deposition should be postponed pending resolution of his request for appointed counsel.

## HOLDINGS

1. Plaintiff did not establish exceptional circumstances warranting appointment of counsel. Indigency, lack of legal training, limited legal research resources, incarceration, and the fact-intensive nature of excessive-force claims were insufficient because plaintiff's claims did not appear too complex for him to articulate pro se.
2. The request to postpone the deposition was denied because plaintiff did not identify when the deposition would occur, did not identify a specific right requiring protection by counsel, and presented only vague and generalized concerns. The request was denied without prejudice.

## KEY QUOTATIONS

*“The denial is without prejudice, which means that plaintiff may renew his motion at a later stage of the proceedings.”* (at 3)

## FACTUAL BACKGROUND

Ryan David Anderson is incarcerated in Washington State and is proceeding pro se and in forma pauperis on excessive-force claims under 42 U.S.C. § 1983. He sought appointment of counsel based on indigency, incarceration, limited education and legal training, restricted access to legal research materials, and the fact-intensive nature of his claims. He also sought to postpone his deposition until counsel could be appointed, citing generalized concerns about protecting his rights and visual and procedural disparities at trial.

## PROCEDURAL HISTORY

The action was pending in the Eastern District of California when plaintiff filed a motion seeking appointed counsel and postponement of his deposition. The court denied both requests without prejudice, allowing plaintiff to renew the motion later in the proceedings.

## 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)
- Wilborn v. Escalderon, 789 F.2d 1328, 1331 & n.5 (9th Cir. 1986)
- Weygandt v. Look, 718 F.2d 952, 954 (9th Cir. 1983)
- Riley v. Franke, 340 F. Supp. 3d 783, 787 (E.D. Wis. 2018)
- Franco-Gonzalez v. Holder, No. 10-cv-02211 DMG (DTBx), 2013 WL 3674492, at \*3-\*9 (C.D. Cal. Apr. 23, 2013)
- Turner v. Rogers, 564 U.S. 431, 444-45 (2011)
- Mathews v. Eldridge, 424 U.S. 319 (1976)
- Palmer v. Valdez, 560 F.3d 965, 970 (9th Cir. 2009)
- Williams v. Navarro, No. 3:18-cv-1318 DMS RBM, 2021 WL 634752, at \*2 (S.D. Cal. Feb. 17, 2021)
- Bumpus v. Nangalama, No. 2:12-cv-1102 GEB DAD, 2015 WL 5435364, at \*4 (E.D. Cal. Sept. 15, 2015)

## OPINION

Vangerwen

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10

11 RYAN DAVID ANDERSON, No. 2:20-cv-0246 DC SCR P

12 Plaintiff, 13 v. ORDER 14 ROBERT M. VAN GERWEN, et al., 15 Defendants. 16 17 Plaintiff  
is incarcerated in Washington State and proceeding pro se and in forma pauperis 18 with a civil  
rights action under 42 U.S.C. § 1983. Plaintiff has filed a motion to appoint counsel 19 and  
postpone his deposition. (ECF No. 50.) For the reasons set forth below, plaintiff's motion is 20  
denied without prejudice.

21 PLAINTIFF'S MOTION

22 I. Arguments 23 Plaintiff seeks the appointment of counsel under 28 U.S.C. § 1915(e)(1) and  
asserts the 24 following exceptional circumstances. First, plaintiff argues that he is indigent and  
lacks financial 25 resources to hire an attorney or pay for investigations, document production,  
postage, or legal 26 supplies necessary to pursue his case. (ECF No. 50 at 2.) Second, plaintiff  
states that his 27 incarceration severely limits his ability to litigate, particularly considering the  
fact-intensive and 28 complex nature of his excessive force claims. (Id.) Third, plaintiff points to  
his limited education 1 and lack of training in the law, as well as the limited legal research  
materials in his minimum- 2 security facility. (Id. at 3.) 3 In addition, plaintiff requests that the  
court postpone his deposition pending resolution of 4 this motion because "counsel's presence is  
necessary to ensure his rights are protected during 5 questioning[.]" (Id. at 2.) He also points to  
"visual and procedural" disparities at trial that he will 6 face without counsel, such as appearing  
before the jury in "prison garb." (Id.) Defendants did 7 not timely oppose or otherwise respond to

plaintiff's motion.<sup>1</sup> 8 II. Legal Standards 9 District courts lack authority under 28 U.S.C. § 1915 to require counsel to represent 10 indigent prisoners in section 1983 cases. *Mallard v. United States* Dist. Court, 490 U.S. 296, 298 11 (1989). In exceptional circumstances, the court may request that an attorney voluntarily represent 12 such a plaintiff. See 28 U.S.C. § 1915(e)(1); *Terrell v. Brewer*, 935 F.2d 1015, 1017 (9th Cir. 13 1991); *Wood v. Housewright*, 900 F.2d 1332, 1335-36 (9th Cir. 1990). The test for exceptional 14 circumstances requires the court to evaluate the plaintiff's likelihood of success on the merits and 15 the ability of the plaintiff to articulate his claims pro se in light of the complexity of the legal 16 issues involved. See *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986); *Weygandt v. 17 Look*, 718 F.2d 952, 954 (9th Cir. 1983). Circumstances common to most prisoners, such as lack 18 of legal education and limited law library access, do not establish exceptional circumstances that 19 would warrant a request for voluntary assistance of counsel. *Wood*, 900 F.2d at 1335; *Riley v. 20 Franke*, 340 F. Supp. 3d 783, 787 (E.D. Wis. 2018). 21 Beyond § 1915(e)(1), other sources of law may implicate a request for counsel. For 22 example, appointed counsel may be required in a civil proceeding as an accommodation for a 23 litigant who is disabled. See *Franco-Gonzalez v. Holder*, No. 10-cv-02211 DMG (DTBx), 2013 24 WL 3674492, at \*3-\*9 (C.D. Cal. Apr. 23, 2013) (granting summary judgment to class of 25 mentally disabled individuals in civil immigration proceedings on their request for appointed 26 27 1 Defendants likely lack standing to object to a motion to appoint counsel. See *Bumpus v. Nangalama*, No. 2:12-cv-1102 GEB DAD, 2015 WL 5435364, at \*4 (E.D. Cal. Sept. 15, 2015). 28 However, the court notes that defendants took no position on postponing plaintiff's deposition. 1 representatives under the Rehabilitation Act). Due process may also require appointment of 2 counsel in certain proceedings. See *Turner v. Rogers*, 564 U.S. 431, 444-45 (2011) (analyzing 3 request for appointment of counsel in civil proceeding under the *Mathews v. Eldridge*, 424 U.S. 4 319 (1976), procedural due process framework). 5 III. Analysis 6 Plaintiff has not established exceptional circumstances warranting the appointment of 7 counsel. Plaintiff's indigency, lack of legal training, and limited legal research resources are 8 circumstances common to most prisoners that generally do not warrant the voluntary assistance of 9 counsel. It is difficult to determine plaintiff's likelihood of success at this stage of the 10 proceedings, but it appears that his excessive force claims are not so complex that he cannot 11 articulate them pro se. See *Palmer v. Valdez*, 560 F.3d 965, 970 (9th Cir. 2009) (finding district 12 court did not abuse discretion in denying counsel to pro se litigant proceeding on Eighth 13 Amendment excessive force claims); *Williams v. Navarro*, No. 3:18-cv-1318 DMS RBM, 2021 14 WL 634752, at \*2 (S.D. Cal. Feb. 17, 2021) (finding plaintiff's excessive force claim "not 15 sufficiently complex to warrant appointment of counsel" and collecting cases). While plaintiff's 16 claims are likely fact-intensive, "the need for further factual discovery is not, by itself, sufficient 17 to establish the complexity of the legal issues." *Wilborn*, 789 F.2d at 1331 n.5. 18 Regarding plaintiff's request to postpone his deposition pending the appointment of 19 counsel, plaintiff does not state when the deposition will occur.<sup>2</sup> Nor does plaintiff identify what 20 particular rights he believes the appointment of counsel

would safeguard. Evidence that the 21 questioning will implicate a specific right, such as the Fifth Amendment right against self- 22 incrimination, may, in some situations, warrant appointment of counsel. However, the vague and 23 generalized concerns that plaintiff presents here are insufficient. Finally, plaintiff's concerns 24 regarding visual disparities at trial are premature. Plaintiff will have an opportunity to present 25 these concerns to the trial judge for resolution prior to the trial phase of the case. 26 Accordingly, plaintiff's motion to appoint counsel and to postpone his deposition is 27 2 By separate order, the undersigned granted defendants' request to extend the deadline to 28 conduct discovery to December 11, 2025. (ECF No. 49.) 1 | denied. The denial is without prejudice, which means that plaintiff may renew his motion at a 2 || later stage of the proceedings.

### 3 CONCLUSION

4 Accordingly, IT IS HEREBY ORDERED that plaintiff's motion to appoint counsel and to 5 || postpone his deposition is DENIED without prejudice. 6 | DATED: December 1, 2025

SEAN C. RIORDAN

9 UNITED STATES MAGISTRATE JUDGE

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