

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Kenneth Eugene Gage v. Janan Cavagnolo, et al.

Gage v. Cavagnolo · No. 2:25-cv-3154-DJC-DMC-P · Decided November 25, 2025

SUMMARY

The court denied a pro se prisoner’s motion for appointment of counsel in a 42 U.S.C. § 1983 action. Applying the exceptional-circumstances standard, the court found that the case was not legally or factually complex, the plaintiff could articulate his claims, and the early procedural posture did not establish a likelihood of success on the merits.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Dennis M. Cota
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	November 25, 2025
DOCKET	2:25-cv-3154-DJC-DMC-P
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff, a prisoner proceeding pro se in a 42 U.S.C. § 1983 action, moved for appointment of counsel.
STANDARD OF REVIEW	Appointment of counsel in a § 1983 action is reviewed for abuse of discretion.
PRECEDENTIAL VALUE	Unpublished district court order; persuasive value only
PARTIES	Kenneth Eugene Gage v. Janan Cavagnolo, et al.

TOPICS

- civil rights
- section 1983
- prisoners rights
- civil procedure

PRACTICE AREAS

- Civil procedure
- Civil rights litigation
- Prisoner civil rights

QUESTIONS PRESENTED

1. Whether the court should appoint counsel for an indigent prisoner pursuing a § 1983 action.
2. Whether Plaintiff established exceptional circumstances based on the likelihood of success on the merits, his ability to articulate his claims, and the alleged complexity of the case.

HOLDINGS

1. A district court may request voluntary assistance of counsel for an indigent prisoner in a § 1983 action only when exceptional circumstances exist, evaluated by considering both the likelihood of success on the merits and the plaintiff's ability to articulate claims in light of the legal and factual complexity.

KEY QUOTATIONS

“A finding of “exceptional circumstances” requires an evaluation of both the likelihood of success on the merits and the ability of the plaintiff to articulate his claims on his own in light of the complexity of the legal issues involved.” (at 1)

“Accordingly, IT IS HEREBY ORDERED that Plaintiff’s motion for the appointment of counsel, ECF No. 6, is denied.” (at 2)

FACTUAL BACKGROUND

Plaintiff is incarcerated and proceeding without counsel in a civil rights action under 42 U.S.C. § 1983. He argued that counsel was warranted because he was indigent, incarcerated, not a trained attorney, in declining health, and facing allegedly complex pretrial matters involving fraud or deception by defendants. The court found that the complaint was not legally or factually complex, that Plaintiff demonstrated sufficient ability to articulate his claims, and that the early stage of the case did not establish a likelihood of success on the merits.

PROCEDURAL HISTORY

The action was pending before the Eastern District of California, and the complaint had not yet been screened or found appropriate for service. Plaintiff moved for appointment of counsel under 28 U.S.C. § 1915(e)(1). The court denied the motion because exceptional circumstances were not established.

DISPOSITION

other

CASES CITED

- Mallard v. United States District 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)

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