

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Gonzales v. Madden

Gonzales · No. 23-cv-2181-AGS-DEB · Decided July 3, 2025

OPINION

Gonzales v. Madden

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 SOUTHERN DISTRICT OF CALIFORNIA

10 HELIDORO GONZALES, Case No.: 23-cv-2181-AGS-DEB 11 Plaintiff,

12 ORDER DENYING MOTION FOR

v. APPOINTMENT OF COUNSEL

13 RAYMOND MADDEN, et al., 14 Defendants. [DKT NO. 25] 15 16 17 Before the Court is
Plaintiff’s Motion for Appointment of Counsel. Dkt No. 25. 18 Plaintiff is a state prisoner
proceeding pro se and in forma pauperis on a claim filed 19 pursuant to 42 U.S.C. § 1983. Dkt.
No. 9 at 1–2. Plaintiff claims he is “illiterate/Spanish- 20 speaking” and, therefore, appointment of
counsel is warranted in the instant action. Dkt.

21 No. 25 at 1 (Pl.’s Mot. to Appoint Counsel.). For the reasons set forth below, Plaintiff’s
22 motion is DENIED without prejudice. 23 There is no constitutional right to counsel in a civil
case. *Palmer v. Valdez*, 560 F.3d 24 965, 970 (9th Cir. 2009) (citing *Storseth v. Spellman*, 654 F.2d
1349, 1353 (9th Cir. 1981)). 25 An indigent’s right to appointed counsel exists “only where the
litigant may lose his 26 physical liberty if he loses the litigation.” *Lassiter v. Dep’t of Soc. Servs.*
of Durham Cty., 27 N.C., 452 U.S. 18, 25 (1981). In “exceptional circumstances,” however, a
court may 28 exercise its discretion and “request an attorney to represent any person unable to
afford 1 counsel.” 28 U.S.C. § 1915(e)(1); *Palmer*, 560 F.3d at 970. The court must consider both
2 “the likelihood of success on the merits as well as the ability of the [Plaintiff] to articulate 3 his
claims pro se in light of the complexity of the legal issues involved.” *Palmer*, 560 F.3d 4 at 970
(quoting *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983)). 5 There is currently no basis to
support a finding of exceptional circumstances in this 6 case. Plaintiff’s complaint and filings
evidence he can effectively articulate his claim 7 (perhaps with assistance) with proper spelling,
grammar, and handwriting. See Dkt. No. 1 8 (Compl.); see also Dkt. No. 2 at 2–4 (Pl.’s Mot. for
Leave to Proceed in forma pauperis); 9 Dkt. No. 10 at 1 (Pl.’s Notice of Intent to Proceed); Dkt.
No. 25 at 1. Moreover, Plaintiff’s 10 complaint survived the Court’s screening. See Dkt. No. 9 at
4–12 (granting Plaintiff’s 11 Motion to Proceed in forma pauperis, granting Plaintiff’s Motion to

File Additional Pages, 12 and finding that eight of Plaintiff's eleven claims survive 28 U.S.C. § 1915A(b) screening). 13 Although Plaintiff's complaint survived screening, the record is not sufficiently 14 developed for the Court to determine whether Plaintiff is likely to succeed on the merits, 15 and Plaintiff makes no such showing in his Motion. *Palmer*, 560 F.3d at 970 (holding that 16 "[w]hen determining whether 'exceptional circumstances' exist, a court must consider 'the 17 likelihood of success on the merits. . .'"). 18 "In civil rights cases where the plaintiff appears pro se, the court must construe the 19 pleadings liberally and must afford plaintiff the benefit of any doubt." *Jackson v. Carey*, 20 353 F.3d 750, 757 (9th Cir. 2003) (internal citation omitted). This also applies to motions. 21 *Bernhardt v. Los Angeles Cty.*, 339 F.3d 920, 925 (9th Cir. 2003) ("Courts have a duty to 22 construe pro se pleadings liberally, including pro se motions. . ."). Accordingly, the Court 23 will take Plaintiff's pro se status into consideration when his filings are reviewed and afford 24 him "the benefit of any doubt." *Jackson*, 353 F.3d at 757. 25 \ 26 \ 27 \ 28 | In sum, the Court does not find the required exceptional circumstances present for 2 | appointment of counsel. Plaintiff's motion, therefore, is DENIED without prejudice to 3 renewal at a later stage of the proceedings. 4 IT IS SO ORDERED. 5 _ 6 Date: July 3, 2025 Selon 7 Honorable Daniel E. Butcher United States Magistrate Judge 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28