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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Willie Earl Key,

10 Plaintiff,

11 v.

12 Nicholas Gombar, et al.,

13 Defendants.

No. CV-13-01623-PHX-DJH (ESW)

ORDER

14 Plaintiff has filed a *pro se* civil rights Complaint (Doc. 1) pursuant to 42 U.S.C. §
15 1983. On December 24, 2014, the Court issued an Order (Doc. 71) addressing for the
16 fourth time the Plaintiff's request for Taser information. The Court also granted the
17 Defendants' Motion to Preclude Further Requests for Taser Information. *Id.* Pending
18 before the Court is Plaintiff's Request for Duty Status Report of Taser #X3000P5C; the
19 appointment of Expert Witnesses and an Investigator (Doc. 70).

20 Plaintiff's request for the taser information is summarily denied as Plaintiff has
21 failed to present newly discovered evidence, demonstrated the Court committed clear
22 error, or that the prior four decisions were manifestly unjust. *School Dist. No. 1J,*
23 *Multnomah County v. A C and S, Inc.*, 5 F.3d 1255, 1263 (9th Cir. 1993). *See also* LRCiv
24 7.2(g)(1).

25 Plaintiff seeks the appointment of a Taser expert, a medical doctor with expertise
26 in burns, and an investigator to assist Plaintiff in developing his case. Plaintiff argues
27 that such witnesses would not only assist the Plaintiff but also the Court.

28 Plaintiff's *in forma pauperis* status does not provide for the Court to appoint

1 expert witnesses or investigators at government expense to assist the Plaintiff. *Dixon v.*
2 *Ylst*, 990 F.2d 478 (9th Cir. 1993) (no authority to pay witness fees); 28 U.S.C. § 1915.
3 Nor does Plaintiff cite legal authority in support of his request. Though Federal Rule of
4 Evidence 706 permits the Court to appoint independent experts on the Court's own
5 motion or at the request of a party, the exercise of such judicial discretion is rare. The
6 purpose of Rule 706 is to aid the Court or jury in resolving the issues.

7 Accordingly, relevant to the exercise of discretion to appoint
8 an expert are several factors associated with the trier-of-fact's
9 need for expert testimony. The most important factor in favor
10 of appointing an expert is that the case involves a complex or
11 esoteric subject beyond the trier-of-fact's ability to adequately
12 understand without expert assistance.

13 *Wright & Miller*, 29 Fed. Prac. & Proc. Evid. § 6304 (2004).

14 At this time, it is not apparent to the Court that an expert in burn scars or tasers is
15 required to resolve issues pertinent to this case. The case is not complex. It presents no
16 esoteric issues. A trial has not been set. Plaintiff has failed to demonstrate the necessity
17 to the Court of the experts he seeks at this stage of the proceedings. Nor is an
18 investigator of any assistance to the Court in resolving the issues before it.

19 Therefore, it is ordered denying Plaintiff's Request for Duty Status Report of
20 Taser #X3000P5C; the appointment of Expert Witnesses and an Investigator (Doc. 70).

21 Dated this 6th day of February, 2015.

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24 Honorable Eileen S. Willett
25 United States Magistrate Judge
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