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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Patrick J. Zotika,

10 Plaintiff,

11 v.

12 Charles L. Ryan et al.,

13 Defendants.
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No. CV-16-8297-PCT-SMM (DKD)

ORDER

15 Pending before the Court are the following motions:

- 16 1. Defendants' Expedited Motion to Quash Plaintiff's Subpoena to DPS (Doc.
17 61);
- 18 2. Plaintiff's Motion for Copy of Docket History (Doc. 68);
- 19 3. Plaintiff's Motion for Extension of Time to File Response (Doc. 70);
- 20 4. Plaintiff's Motion to Compel Production and Renewed Request for Order
21 of Protection (Doc. 71);
- 22 5. Plaintiff's Motion for Extension of Time to File Response (Doc. 73);
- 23 6. Plaintiff's Motion and Request for Court to Order Defense Counsel to
24 Effect Service on Defendant Shahana Fredrick (Doc. 75);
- 25 7. Defendants' Second Motion to Quash Subpoena to COIII McNamer (Doc.
26 82);
- 27 8. Plaintiff's Renewed Appointment of Counsel (Doc. 83);
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1 9. Plaintiff’s Motion for Extension of Time to File a Separate Statement of
2 Facts in Opposition for Summary Judgment (Doc. 86); and

3 10. Plaintiff’s Renewed Motion for Extension of Time (Doc. 89).

4 Motion to Quash

5 Defendants are requesting that the Court quash Plaintiff’s subpoenas which were
6 filed November 20, 2017 and February 28, 2018 (Docs. 45, 61, 76, 82). The Court notes
7 that discovery in this matter was stayed pending the resolution of Defendants’ Motion for
8 Summary Judgment (Doc. 55). Because discovery has been stayed, the Court will deny
9 the motions to quash as moot and without prejudice so that they can be refiled if
10 appropriate when the stay is lifted.

11 Request for Copy

12 Plaintiff’s Motion is a “discovery request” addressed to the Court, by which
13 Plaintiff seeks to have the Court provide a copy of the case docket report. “The Supreme
14 Court has declared that ‘the expenditure of public funds [on behalf of an indigent litigant]
15 is proper only when authorized by Congress’” *Tedder v. Odel*, 890 F.2d 210, 211–12
16 (9th Cir. 1989) (*per curiam*) (quoting *United States v. MacCollom*, 426 U.S. 317, 321
17 (1976)). The *in forma pauperis* statute, 28 U.S.C. § 1915, authorizes the Court to pay for
18 service of process on behalf of an indigent litigant and, in certain cases, to pay the costs
19 of printing the record on appeal and preparing a transcript of proceedings, but the statute
20 does not authorize the Court to pay the costs for an indigent litigant’s general copy
21 requests. *See In re Richard*, 914 F.2d 1526, 1527 (6th Cir. 1990) (28 U.S.C. § 1915 “does
22 not give the litigant a right to have documents copied and returned to him at government
23 expense”); *Turner v. Daniels*, No. CV 14-1188-PHX-SMM (JZB), 2015 WL 160055 at
24 *3 (D. Ariz. Jan. 13, 2015); *cf. Dixon v. Ylst*, 990 F.2d 478, 480 (9th Cir. 1993) (Section
25 1915 does not authorize the district courts to waive payment of fees or expenses for
26 witnesses) (citation omitted). Therefore, Plaintiff’s motion will be denied.

1 Extension of Time

2 Also pending is Plaintiff’s Motion for Extension of Time to File a Response to
3 Defendant’s Second Motion to Quash Subpoena (Doc. 70). On January 15, 2018,
4 Defendants filed a Motion to Quash Plaintiff’s Subpoenas (Doc. 66). The Court notes
5 that the motion filed in this case number was incorrectly filed and it appears that Plaintiff
6 intended it to be filed under a different case number. The Motion filed at Document 66
7 has been vacated. Accordingly, Plaintiff’s motion will be denied as unnecessary.

8 In his second motion for extension, Plaintiff is again requesting an extension of
9 time to respond to the Motion for Summary Judgment and Motion to Quash (Doc. 73).
10 Plaintiff sought to extend the deadline to March 12, 2018. On February 20, 2018,
11 Plaintiff filed his objection to the Motion to Quash (Doc. 80). Defendants replied on
12 February 23, 2018 (Doc. 81). Moreover, on March 7, 2018, Plaintiff filed his response to
13 Defendants’ Motion for Summary Judgment. Accordingly, Plaintiff’s request will be
14 granted and his response is considered timely filed.

15 Motion to Compel

16 Plaintiff’s motion to compel appears to be another discovery request by Plaintiff
17 (Docs. 45, 71). Defendants oppose Plaintiff’s request (Doc. 78). The Court has stayed
18 discovery pending resolution of the Motion for Summary Judgment. Accordingly,
19 Plaintiff’s motion will be denied as moot and without prejudice so that it can be refiled if
20 appropriate when the stay is lifted.

21 Effect Service

22 Plaintiff is requesting the assistance of the Court in directing that defense counsel
23 effect service of Defendant Fredrick. In their response, Defendants state “[d]efense
24 counsel has obtained additional contact information for Defendant Fredrick. Defense
25 counsel will timely notify the Court and Plaintiff if Defendant Fredrick agrees to waive
26 service of Plaintiff’s Complaint” (Doc. 79). It appears that this matter has been addressed
27 by Defendants. Defendants will be required to file a Notice with the Court no later than
28 14 days from the date of this order indicating whether service has been effected.

1 Appointment of Counsel

2 Plaintiff is again requesting that the court appoint counsel because he lacks legal
3 training, cannot afford counsel, because of his mental health disability, and because the
4 issues in this matter are complex.

5 There is no constitutional right to appointment of counsel in a civil case. *See*
6 *Johnson v. Dep't of Treasury*, 939 F.2d 820, 824 (9th Cir. 1991). Appointment of counsel
7 in a civil rights case is required only when exceptional circumstances are present. *Terrell*
8 *v. Brewer*, 935 F.2d 1015, 1017 (9th Cir. 1991) (citing *Wilborn v. Escalderon*, 789 F.2d
9 1328, 1331 (9th Cir. 1986)). In determining whether to appoint counsel, the court should
10 consider the likelihood of success on the merits, and the ability of plaintiff to articulate
11 his claims in view of their complexity. *Wood v. Housewright*, 900 F.2d 1332, 1335 (9th
12 Cir. 1990).

13 Plaintiff has again failed to demonstrate a likelihood of success on the merits, and
14 has he shown that he is experiencing difficulty in litigating this case because of the
15 complexity of the issues involved. Moreover, Plaintiff's numerous filings with the Court
16 as well as the pending motion, indicate that Plaintiff is capable of presenting legal and
17 factual arguments to the Court. After reviewing the file, the Court determines that this
18 case does not present exceptional circumstances requiring the appointment of counsel.
19 Accordingly, Plaintiff's motion will be denied.

20 **IT IS THEREFORE ORDERED** denying Defendants' Expedited Motion to
21 Quash Plaintiff's Subpoena to DPS (Doc. 61) and Second Motion to Quash Subpoena to
22 COIII McNamer (Doc. 82), as moot and without prejudice to refile if appropriate.

23 **IT IS FURTHER ORDERED** denying Plaintiff's Motion for Copy of Docket
24 History (Doc. 68).

25 **IT IS FURTHER ORDERED** granting Plaintiff's Motions for Extension of Time
26 to File Response (Docs. 70, 73). Plaintiff's response (Doc. 84) will be filed as timely.

1 **IT IS FURTHER ORDERED** denying Plaintiff's Motion to Compel Production
2 and Renewed Request for Order of Protection (Doc. 71), as moot and without prejudice
3 to refile if appropriate.

4 **IT IS FURTHER ORDERED** granting Plaintiff's Motion and Request for Court
5 to Order Defense Counsel to Effect Service on Defendant Shahana Fredrick (Doc. 75).
6 Defendants shall file a Notice with the Court no later than 14 days from the date of this
7 order indicating whether service has been effected on Defendant Fredrick.

8 **IT IS FURTHER ORDERED** denying Plaintiff's Renewed Appointment of
9 Counsel (Doc. 83).

10 **IT IS FURTHER ORDERED** granting Plaintiff's Motion for Extension of Time
11 to File a Separate Statement of Facts in Opposition for Summary Judgment (Doc. 86) and
12 his Renewed Motion for Extension of Time (Doc. 89). Plaintiff's Separate Statement of
13 Facts shall be filed no later than April 16, 2018. Defendants shall have an additional 15
14 days from the date Plaintiff's controverting statement of facts is filed on the Court's
15 docket to prepare a supplemental Reply.

16 Dated this 29th day of March, 2018.

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David K. Duncan
United States Magistrate Judge