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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ROBERT BENYAMINI,
 Plaintiff,
 vs.
DEBBIE MANJUANO, et al.,
 Defendants.

1:06-cv-01096-AWI-GSA-PC

ORDER DENYING MOTION TO APPOINT
COUNSEL, TO STAY PROCEEDINGS, TO
REQUIRE PRISON TO ACCOMMODATE
PLAINTIFF'S CLAUSTROPHOBIA AND
PROVIDE ENVELOPES, ACCESS TO LAW
LIBRARY, TRUTH SERUM AND POLYGRAPH
TEST, AND FOR COURT TO PROVIDE FREE
COPIES
(Docs. 101, 102.)

ORDER GRANTING EXTENSION OF TIME TO
FILE OBJECTIONS TO FINDINGS AND
RECOMMENDATIONS OF MAY 24, 2011
(Doc. 97.)

THIRTY DAY DEADLINE

I. BACKGROUND

Robert Benyamini ("Plaintiff") is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed the original Complaint on August 21, 2006, and this action now proceeds on the Third Amended Complaint filed on May 23, 2008. (Docs. 1, 35.) Pending before the Court is Plaintiff's motion for appointment of counsel, to stay these proceedings, for an extension of time, for the prison to accommodate Plaintiff's claustrophobia and provide Plaintiff with truth serum and a polygraph test, for the prison to provide Plaintiff and other

1 inmates with postage-paid envelopes, and for free copies of documents from the court's record . (Docs.
2 101, 102.)

3 **II. MOTION FOR COUNSEL**

4 Plaintiff does not have a constitutional right to appointed counsel in this action, Rand v.
5 Rowland, 113 F.3d 1520, 1525 (9th Cir. 1997), and the court cannot require an attorney to represent
6 plaintiff pursuant to 28 U.S.C. § 1915(e)(1). Mallard v. United States District Court for the Southern
7 District of Iowa, 490 U.S. 296, 298, 109 S.Ct. 1814, 1816 (1989). However, in certain exceptional
8 circumstances the court may request the voluntary assistance of counsel pursuant to section 1915(e)(1).
9 Rand, 113 F.3d at 1525.

10 Without a reasonable method of securing and compensating counsel, the court will seek
11 volunteer counsel only in the most serious and exceptional cases. In determining whether “exceptional
12 circumstances exist, the district court must evaluate both the likelihood of success of the merits [and]
13 the ability of the [plaintiff] to articulate his claims *pro se* in light of the complexity of the legal issues
14 involved.” Id. (internal quotation marks and citations omitted).

15 In the present case, the Court does not find the required exceptional circumstances. Even if it
16 is assumed that Plaintiff is not well versed in the law and that he has made serious allegations which,
17 if proved, would entitle him to relief, his case is not exceptional. This Court is faced with similar cases
18 almost daily. Further, at this early stage in the proceedings, the Court cannot make a determination that
19 Plaintiff is likely to succeed on the merits, and based on a review of the record in this case, the Court
20 does not find that Plaintiff cannot adequately articulate his claims. Id. Therefore, Plaintiff's motion for
21 counsel shall be denied.

22 **III. MOTION TO STAY PROCEEDINGS**

23 Plaintiff seeks a stay of the proceedings in this action on the ground that he is presently housed
24 in administrative segregation, suffers from claustrophobia, and does not have access to his property or
25 the law library.

26 The Court does not lightly stay litigation, due to the possibility of prejudice to defendants.
27 Plaintiff's only pending deadline in this action is to file objections to the Magistrate's findings and
28

1 recommendations of May 24, 2011. Although the court recognizes that Plaintiff is challenged by his
2 disabilities and prison conditions, this action has been pending since August 21, 2006, and an extended
3 delay shall not be granted without good cause. In the alternative, Plaintiff shall be granted additional
4 time to meet his pending case deadline to file objections. Therefore, Plaintiff's motion for stay shall be
5 denied.

6 **IV. MOTION FOR PRISON TO ACCOMMODATE PLAINTIFF'S CLAUSTROPHOBIA**
7 **AND PROVIDE HIM WITH ACCESS TO LAW LIBRARY, TRUTH SERUM,**
8 **POLYGRAPH TEST, AND POSTAGE-PAID ENVELOPES**

9 Plaintiff requests a court order compelling prison officials to accommodate his claustrophobia,
10 provide him with access to the law library, truth serum, and a polygraph test, and provide him and other
11 inmates with postage-paid envelopes.

12 With respect to accommodation for Plaintiff's claustrophobia, and Plaintiff's request for
13 envelopes, the Court addressed these issues in the Findings and Recommendations entered on June 15,
14 2011, to which Plaintiff filed timely objections on July 13, 2011. (Docs. 100, 103.) Therefore, these
15 requests shall be denied as duplicative.

16 With respect to Plaintiff's request for a court order requiring the prison to provide him with
17 access to the law library, truth serum, and a polygraph test, the Court recognizes that prison
18 administrators "should be accorded wide-ranging deference in the adoption and execution of policies and
19 practices that in their judgment are needed to preserve internal order and discipline and to maintain
20 institutional security." Whitley v. Albers, 475 U.S. 312, 321-322 (1986) (*quoting* Bell v. Wolfish, 441
21 U.S. 520, 547 (1970)). Moreover, Plaintiff has not shown that his requests for truth serum and a
22 polygraph are related in any way to the allegations in this case. Therefore, Plaintiff's requests for access
23 to the law library, truth serum, and a polygraph test shall be denied.

24 **V. MOTION FOR FREE COPIES**

25 Plaintiff requests free copies of his amended complaints and all of the motions filed in this
26 action. The Clerk does not ordinarily provide free copies of documents to parties. The Clerk charges
27 \$.50 per page for copies of documents. See 28 U.S.C. § 1914(a). Copies up to 20 pages may be made
28 by the Clerk's office at this Court upon request and prepayment of the copy fees. The fact that the Court

1 has granted leave for Plaintiff to proceed in forma pauperis does not entitle him to free copies of
2 documents from the court's record. The Clerk is not required to furnish copies without cost to an
3 indigent petitioner except by order of the judge. 28 U.S.C. § 2250. Plaintiff has not shown good cause
4 for the Court to order the Clerk to provide him with extensive free copy
5 work. Plaintiff's only current
6 deadline in this action is to file objections to the findings and recommendations, and Plaintiff does not
7 need the copies requested to file objections. Therefore, Plaintiff's request for free copies shall be denied.

8 **VI. MOTION FOR EXTENSION OF TIME**

9 Plaintiff requests extensions of time to comply with all of his pending deadlines. The only
10 deadline currently pending in this action is for Plaintiff to file objections to the Magistrate's findings and
11 recommendations of May 24, 2011. Good cause appearing, Plaintiff shall be granted a thirty-day
12 extension of time to file objections. Should Plaintiff require another extension, he must file a motion
13 before the expiration of the current deadline. Fed. R. Civ. P. 6(b).

14 **VII. CONCLUSION**

15 Accordingly, IT IS HEREBY ORDERED that:

- 16 1. Plaintiff's motion for appointment of counsel is DENIED;
- 17 2. Plaintiff's motion to stay this action is DENIED;
- 18 3. Plaintiff's motion for a court order requiring prison officials to provide him and other
19 inmates with postage-paid envelopes, and to accommodate his claustrophobia, is
20 DENIED as duplicative;
- 21 4. Plaintiff's motion for a court order requiring prison officials to provide him with access
22 to the law library, truth serum, and a polygraph test is DENIED;
- 23 5. Plaintiff's request for free copies from the court's record is DENIED;
- 24 6. Plaintiff is GRANTED an extension of time until thirty days from the date of service of
25 this order in which to file objections to the Magistrate's findings and recommendations
26 of May 24, 2011;
- 27 7. Should Plaintiff require a further extension of time, he must file a motion before the

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expiration of the current deadline; and

8. **Further extensions of time shall not be granted without a showing of good cause.**

IT IS SO ORDERED.

Dated: July 25, 2011

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE