

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

FRESNO DIVISION

BRYANT W. PLITT,)	
)	
Plaintiff,)	Case No. 1:08-CV-1352-BLW-LMB
)	
vs.)	ORDER
)	
FRESNO POLICE OFFICER R.)	
GONZALEZ, et al.,)	
)	
Defendants.)	
_____)	

Currently pending and considered herein is Plaintiff's request for an extension of time to file a response to Defendants' Motion for Summary Judgment (Dkt. No. 23), Dkt. No. 26, and Motion for Appointment of Counsel, Dkt. No. 27.

1. Motion of Extension of Time

On February 22, 2011, Plaintiff requested 90-180 additional days to file a response to Defendants Motion for Summary Judgment based on unexplained injuries and a transfer from facilities. Plaintiff has had over ninety (90) additional days as of the date of this Order. Plaintiff shall be granted an additional thirty (30) days from the date of this Order.

2. Motion to Appoint Counsel

Unlike criminal defendants, prisoners and indigents in civil actions have no constitutional right to counsel unless their physical liberty is at stake. *Lassiter v. Dept. of Social Services*, 452 U.S. 18, 25 (1981). Whether a court appoints counsel for indigent litigants is within the court's discretion. *Wilborn v. Escalderon*, 789 F.2d 1328, 1330-31 (9th Cir. 1986).

In civil cases, counsel should be appointed only in “extraordinary cases.” *Id.* at 1330. To determine whether extraordinary circumstances exist, the court should evaluate two factors: (1) the likelihood of success on the merits of the case, and (2) the ability of the plaintiff to articulate his claims pro se in light of the complexity of legal issues involved. *Terrell v. Brewer*, 935 F.2d 1015, 1017 (9th Cir. 1991). Neither factor is dispositive, and both must be evaluated together. *Id.*

Applying the factors to this case, the Court finds that Plaintiff has articulated his claims sufficiently, and that the legal issues are not complex in this matter. Based on the foregoing reasons the Court finds it appropriate to deny Plaintiff’s Motion for Appointment of Counsel at this time.

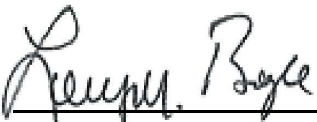
ORDER

NOW THEREFORE IT IS HEREBY ORDERED:

1. Plaintiff’s Motion for Extension of Time (Dkt. No. 26) is GRANTED. **Plaintiff’s response to the Motion for Summary Judgment (Dkt. No. 23) is due and shall be filed on or before July 8, 2011.**
2. Plaintiff’s Motion for Appointment of Counsel (Dkt. No. 27) is DENIED without prejudice.



DATED: **June 7, 2011.**



Honorable Larry M. Boyle
United States Magistrate Judge