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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

HORACE BELL,

Plaintiff,

v.

SHERRY LOPEZ, et al.,

Defendants.

CASE NO. 1:10-cv-01762-SKO PC

ORDER DENYING MOTION FOR THE APPOINTMENT OF COUNSEL AND FOR DISCOVERY

(Doc. 17)

Plaintiff Horace Bell, a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 on September 24, 2010. On May 9, 2011, Plaintiff filed a motion seeking the appointment of counsel and for leave to review Defendants’ personnel files.

Plaintiff does not have a constitutional right to the appointment of counsel in this action. Palmer v. Valdez, 560 F.3d 965, 970 (9th Cir. 2009); Storseth v. Spellman, 654 F.2d 1349, 1353 (9th Cir. 1981). The Court may request the voluntary assistance of counsel pursuant to 28 U.S.C. § 1915(e)(1), but it will do so only if exceptional circumstances exist. Palmer, 560 F.3d at 970; Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th Cir. 1981). In making this determination, the Court must evaluate the likelihood of success on the merits and the ability of Plaintiff to articulate his claims *pro se* in light of the complexity of the legal issues involved. Palmer, 560 F.3d at 970 (citation and quotation marks omitted); Wilborn, 789 F.2d at 1331. Neither consideration is dispositive and they must be viewed together. Palmer, 560 F.3d at 970 (citation and quotation marks omitted); Wilborn 789 F.2d at 1331.

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1 In the present case, the Court does not find the required exceptional circumstances. Plaintiff
2 is able to adequately articulate his claims and in light of the separately issued screening order, the
3 Court cannot find at this juncture that Plaintiff is likely to succeed on the merits. Therefore,
4 Plaintiff's motion for the appointment of counsel is HEREBY DENIED.

5 With respect to reviewing Defendants' personnel files, discovery is not yet open. Plaintiff's
6 request is premature and is HEREBY DENIED on that ground.

7
8 IT IS SO ORDERED.

9 **Dated:** August 12, 2011

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE