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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ANTHONY E. JOHNSON, SR.,
Plaintiff,
v.
SEXTON, et al.,
Defendants.

Case No. 1:14-cv-00643-SKO (PC)

ORDER DENYING MOTION FOR
APPOINTMENT OF COUNSEL AND
GRANTING THIRTY-DAY EXTENSION OF
TIME TO AMEND

(Doc. 13)

Plaintiff Anthony E. Johnson, Sr., a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 on April 30, 2014. On February 17, 2015, the Court dismissed Plaintiff's complaint, with leave to amend, for failure to state a claim. On June 22, 2015, after obtaining a sixty-day extension of time to amend, Plaintiff filed a motion seeking the appointment of counsel.

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. 1986). 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

1 dispositive and they must be viewed together. *Palmer*, 560 F.3d at 970 (citation and quotation
2 marks omitted); *Wilborn* 789 F.2d at 1331.

3 In the present case, the Court does not find the required exceptional circumstances. Even
4 if it is assumed that Plaintiff is not well versed in the law and that he has made serious allegations
5 which, if proved, would entitle him to relief, his case is not exceptional. The Court is faced with
6 similar cases almost daily. Further, at this early stage in the proceedings, the Court cannot make a
7 determination that Plaintiff is likely to succeed on the merits, and based on a review of the record
8 in this case, the Court does not find that Plaintiff cannot adequately articulate his claims. *Palmer*,
9 560 F.3d at 970.

10 Accordingly, Plaintiff's motion for the appointment of counsel is HEREBY DENIED,
11 without prejudice. Plaintiff is GRANTED, *sua sponte*, a thirty-day extension of time to file his
12 amended complaint.

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14 IT IS SO ORDERED.

15 Dated: June 24, 2015

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE

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