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8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**
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11 JEFFREY P. PERROTTE,) Case No.: 1:15-cv-00026-LJO-SAB (PC)
12 Plaintiff,)
13 v.) ORDER DENYING PLAINTIFF’S REQUEST FOR
14 STACEY JOHNSON, et al.,) APPOINTMENT OF COUNSEL, GRANTING
15 Defendants.) REQUEST FOR EXTENSION OF TIME TO FILE
16) OPPOSITION, AND DENYING, WITHOUT
) PREJUDICE, REQUEST FOR SETTLEMENT
) CONFERENCE
) [ECF No. 108]

17 Plaintiff Jeffrey P. Perrotte is appearing pro se and in forma pauperis in this civil rights action
18 pursuant to 42 U.S.C. § 1983.

19 Currently before the Court is Plaintiff’s motion for appointment of counsel, referral of case for
20 settlement conference, and request for extension of time to file a further opposition to Defendants’
21 exhaustion-related motion for summary judgment, filed November 20, 2017.

22 **I. Request for Appointment of Counsel**

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

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

6 The test for exceptional circumstances requires the Court to evaluate the Plaintiff’s likelihood
7 of success on the merits and the ability of the Plaintiff to articulate his claims pro se in light of the
8 complexity of the legal issues involved. See Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th Cir.
9 1986); Weygandt v. Look, 718 F.2d 952, 954 (9th Cir. 1983). While a pro se litigant may be better
10 served with the assistance of counsel, so long as a pro se litigant, such as Plaintiff in this instance, is
11 able to “articulate his claims against the relative complexity of the matter,” the “exceptional
12 circumstances” which might require the appointment of counsel do not exist. Rand v. Rowland, 113
13 F.3d at 1525 (finding no abuse of discretion under 28 U.S.C. § 1915(e) when district court denied
14 appointment of counsel despite fact that pro se prisoner “may well have fared better-particularly in the
15 realm of discovery and the securing of expert testimony.”) Based on the record in this case, Plaintiff is
16 able to articulate his claims and litigate this action. Circumstances common to most prisoners, such as
17 lack of financial resources, lack of legal education and limited law library access, do not establish
18 exceptional circumstances that would warrant a request for voluntary assistance of counsel.
19 Accordingly, Plaintiff’s second motion for appointment of counsel is DENIED, without prejudice.

20 **II. Settlement Conference**

21 Plaintiff is advised that settlement offers and/or negotiations between the parties shall not be
22 filed with the Court and the parties are free to engage in ongoing settlement negotiations amongst
23 themselves. If both parties believe a settlement conference will be beneficial, they may contact the
24 Court and a settlement conference will be arranged. Accordingly, Plaintiff’s motion for settlement of
25 the case shall be denied, without prejudice.

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III. Extension of Time to File a Further Opposition

Although Plaintiff presents arguments relating to the pending motion for summary judgment, Plaintiff seeks an extension of time to file a further opposition to Defendants' motion for summary judgment.

On the basis of good cause, the Court will grant Plaintiff thirty (30) days from the date of service of this order to file an opposition to Defendants' motion for summary judgment. However, no further extension of time will be granted absent extraordinary circumstances, not present here.

IT IS SO ORDERED.

Dated: November 28, 2017


UNITED STATES MAGISTRATE JUDGE