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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

TOM MARK FRANKS,

 Plaintiff,

 v.

KIRK, et al.,

 Defendants.

Case No. 1:15-cv-00401-EPG

ORDER DENYING PLAINTIFF’S MOTION
FOR THE APPOINTMENT OF PRO BONO
COUNSEL WITHOUT PREJUDICE

(ECF NO. 120)

Plaintiff Tom Mark Franks (“Plaintiff”) is proceeding *pro se* and *in forma pauperis* with this civil rights action pursuant to 42 U.S.C. § 1983. A jury trial was held on July 19 and 20, 2018, after which the jury returned a verdict in favor of Defendants, Deputy Sheriff Max Wigt, Deputy Sheriff Ryan Mauldin, and Lieutenant Timothy Kirk, and against Plaintiff, Tom Mark Franks. (ECF No. 103.) Plaintiff then filed a motion for a new trial, which the Court denied. (ECF Nos. 107, 112.) Plaintiff then appealed the judgment and the denial of his motion for a new trial to the United States Court of Appeals for the Ninth Circuit. (ECF No. 113.) That appeal remains pending.

On June 6, 2019, Plaintiff filed a motion asking this Court to appoint pro bono counsel for him. (ECF No. 120.) He argues that he is wholly indigent, ignorant of the law, has only a sixth-grade education, must seek the help of untrained law library clerks to complete any legal documents, and that the issues in this matter are complex.

1 Generally, the filing of a notice of appeal divests the district court of jurisdiction with
2 respect to all matters involved in the appeal. *Griggs v. Provident Consumer Discount Co.*, 459
3 U.S. 56, 58 (1982) (*per curiam*); *Bermudez v. Duenas*, 936 F.2d 1064, 1068 (9th Cir. 1991);
4 *Gould v. Mutual Life Insurance Company of New York*, 790 F.2d 769, 772 (9th Cir. 1986); *Scott*
5 *v. Younger*, 739 F.2d 1464, 1466 (9th Cir. 1984); *Davis v. United States*, 667 F.2d 822, 824 (9th
6 Cir. 1982)

7 Here, once Plaintiff filed his timely notice of appeal, this Court was divested of
8 justification of all matters related to the appeal. Accordingly, as Plaintiff's request for counsel
9 clearly concerns the appeal, the Court lacks jurisdiction to consider it and will deny it without
10 prejudice on that basis.

11 Accordingly, IT IS HEREBY ORDERED that Plaintiff's "Motion for Appointment of
12 Counsel" is DENIED WITHOUT PREJUDICE.

13 IT IS SO ORDERED.

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15 Dated: September 26, 2019

16 /s/ Eric P. Grigg
17 UNITED STATES MAGISTRATE JUDGE
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