

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JON L. NYLAND.

Plaintiff.

Y.

CALAVERAS COUNTY SHERIFF'S
JAIL, et al.,

Defendants.

1:15-cv-00886-GSA (PC)

ORDER DENYING MOTION FOR
APPOINTMENT OF COUNSEL
(ECF No. 39.)

ORDER FOR CLERK TO SEND PLAINTIFF
COPIES OF SELECTED LOCAL RULES

I. BACKGROUND

Jon L. Nyland (“Plaintiff”) is a former prisoner proceeding *pro se* and *in forma pauperis* with this civil rights action pursuant to 42 U.S.C. § 1983. On August 30, 2017, Plaintiff filed a motion seeking the appointment of counsel. (ECF No. 39.) Plaintiff also requested a copy of the Local Rules. (Id.)

II. MOTION FOR APPOINTMENT OF COUNSEL

Plaintiff does not have a constitutional right to appointed counsel in this action, Rand v. Rowland, 113 F.3d 1520, 1525 (9th Cir. 1997), and the court cannot require an attorney to represent Plaintiff pursuant to 28 U.S.C. § 1915(e)(1). Mallard v. United States District Court for the Southern District of Iowa, 490 U.S. 296, 298, 109 S.Ct. 1814, 1816 (1989). However, in certain exceptional circumstances the court may request the voluntary assistance of counsel pursuant to section 1915(e)(1). Rand, 113 F.3d at 1525.

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

In the present case, the court does not find the required exceptional circumstances. At this stage of the proceedings the court cannot make a determination that Plaintiff is likely to succeed on the merits. The defendants have been served, but none of them have filed an answer or otherwise appeared in the case. Based on the record in this case the court finds that Plaintiff can adequately articulate his claims and respond to court orders. Further, the legal issues in this case – whether defendants retaliated against Plaintiff, denied him due process, and interfered with his legal mail – do not appear complex. Therefore, Plaintiff’s motion shall be denied without prejudice to renewal of the motion at a later stage of the proceedings.

III. REQUEST FOR COPY OF LOCAL RULES

Plaintiff requests a copy of the Local Rules for the United States District Court, Eastern District of California. Plaintiff asserts that he is presently confined, as a condition of parole, at a residential treatment facility where there is no law library. The court finds good cause to provide Plaintiff with copies of selected Local Rules pertaining to prisoner civil rights cases. Therefore, the Clerk shall be directed to send Plaintiff current copies of the following Local Rules:

- 110 Sanctions for Noncompliance with Rules
- 130 General Format of Documents
- 131 Counsel Identification and Signatures
- 134 Time of Filing
- 135 Service of Documents During Action
- 142 Affidavits
- 144 Extending and Shortening Time
- 162.1 Examination and Challenges of Trial Jury- Civil and Criminal
- 163 Jury Instructions and Verdicts- Civil and Criminal Actions
- 182 Attorneys - Appearance and Withdrawal
- 183 Persons Appearing In Propria Persona
- 201 Jury Demand
- 220 Changed Pleadings
- 230 Civil Motion Calendar and Procedure

1 231 Temporary Restraining Order- Preliminary Injunction
2 250.1 Depositions
3 250.2 Interrogatories
4 250.3 Production of Documents
5 250.4 Requests for Admission
6 260 Motions for Summary Judge or Summary Adjudication
7 281 Pretrial Statements
8 285 Trial Briefs
9 303 Role of Magistrate Judge and Procedure for Resolving General Pretrial Matters in
10 Criminal and Civil Actions
11 304 Magistrate Judges' Authority in Excepted Pretrial Matters
12 305 Procedures for the Disposition of Civil Actions on Consent of the Parties

13 **IV. CONCLUSION**

14 Based on the foregoing, IT IS HEREBY ORDERED that:

15 1. Plaintiff's motion for the appointment of counsel, filed on August 30, 2017, is
16 DENIED, without prejudice;
17 2. Plaintiff's request for copies of Local Rules is GRANTED; and
18 3. The Clerk of Court is directed to send Plaintiff current copies of the selected Local
19 Rules listed above in this order.

20 IT IS SO ORDERED.

21 Dated: September 8, 2017

22 /s/ Gary S. Austin
23 UNITED STATES MAGISTRATE JUDGE