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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 JON L. NYLAND,

12 Plaintiff,

13 v.

14 CALAVERAS COUNTY SHERIFF'S
15 JAIL, et al.,

16 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

17 **I. BACKGROUND**

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

22 **II. MOTION 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 an attorney to
25 represent Plaintiff pursuant to 28 U.S.C. § 1915(e)(1). Mallard v. United States District Court for
26 the Southern District of Iowa, 490 U.S. 296, 298, 109 S.Ct. 1814, 1816 (1989). However, in
27 certain exceptional circumstances the court may request the voluntary assistance of counsel
28 pursuant to section 1915(e)(1). Rand, 113 F.3d at 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 of
4 the merits [and] the ability of the [plaintiff] to articulate his claims *pro se* in light of the
5 complexity of the legal issues involved.” Id. (internal quotation marks and citations omitted).

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

14 **III. REQUEST FOR COPY OF LOCAL RULES**

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

20 110 Sanctions for Noncompliance with Rules
21 130 General Format of Documents
22 131 Counsel Identification and Signatures
23 134 Time of Filing
24 135 Service of Documents During Action
25 142 Affidavits
26 144 Extending and Shortening Time
27 162.1 Examination and Challenges of Trial Jury- Civil and Criminal
28 163 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

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

IV. CONCLUSION

Based on the foregoing, IT IS HEREBY ORDERED that:

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

IT IS SO ORDERED.

Dated: September 8, 2017

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE