

1
2
3
4
5
6
7
8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
10

11 STEVEN HANSEN,

12 Plaintiff,

13 vs.

14 P. NKWOCHA,

15 Defendant.
16
17
18
19
20

1:15-cv-01665-GSA-PC

**ORDER DENYING MOTION FOR
APPOINTMENT OF COUNSEL AND
GRANTING MOTION FOR
EXTENSION OF TIME**

(ECF No. 23.)

**THIRTY-DAY DEADLINE TO FILE
OBJECTIONS**

21 Steven Hansen (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis
22 with this civil rights action filed pursuant to 42 U.S.C. § 1983. Plaintiff filed the Complaint
23 commencing this action on November 2, 2015. (ECF No. 1.) This case now proceeds with
24 Plaintiff’s First Amended Complaint filed on February 29, 2016, against sole defendant
25 Custody Officer Philip Nkwocha (“Defendant”), on Plaintiff’s retaliation claim under the First
26 Amendment. (ECF No. 7.)

27 On May 12, 2017, Plaintiff filed a motion for appointment of counsel and a motion for
28 extension of time. (ECF No. 23.)

1 **I. APPOINTMENT OF COUNSEL**

2 Plaintiff requests court-appointed counsel to assist him with this litigation. Plaintiff
3 does not have a constitutional right to appointed counsel in this action, Rand v. Rowland, 113
4 F.3d 1520, 1525 (9th Cir. 1997), and the court cannot require an attorney to represent Plaintiff
5 pursuant to 28 U.S.C. § 1915(e)(1). Mallard v. United States District Court for the Southern
6 District of Iowa, 490 U.S. 296, 298 (1989). However, in certain exceptional circumstances the
7 court may request the voluntary assistance of counsel pursuant to section 1915(e)(1). Rand,
8 113 F.3d at 1525.

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

14 In the present case, the court does not find the required exceptional circumstances. On
15 April 25, 2017, the court entered findings and recommendations, recommending that summary
16 judgment be granted against Plaintiff in this case on the ground that Plaintiff failed to exhaust
17 his administrative remedies. (ECF No. 22.) Based on the findings and recommendations, the
18 court has determined that Plaintiff is unlikely to succeed on the merits. Moreover, a review of
19 the record shows that Plaintiff is responsive, adequately communicates, and is able to articulate
20 his claims *pro se*. Therefore, Plaintiff’s motion shall be denied, without prejudice to renewal of
21 the motion at a later stage of the proceedings.

22 **II. EXTENSION OF TIME**

23 Plaintiff requests a ninety-day extension of time to file objections to the court’s findings
24 and recommendations, asserting that the mail is slow and does not allow him enough time to
25 respond. The court finds good cause to grant Plaintiff a thirty-day extension of time to file
26 objections.

27 ///

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

III. CONCLUSION

Based on the foregoing, IT IS HEREBY ORDERED that:

- 1. Plaintiff's motion for appointment of counsel is DENIED, without prejudice;
and
- 2. Plaintiff is GRANTED thirty days from the date of service of this order in which to file objections to the findings and recommendations issued on April 25, 2017.

IT IS SO ORDERED.

Dated: June 8, 2017

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE