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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

SHANNON RILEY,
Plaintiff,
v.
TALLERICO and YERRY,
Defendants.

Case No. 1:16-cv-01189-AWI-EPG (PC)
ORDER DENYING PLAINTIFF’S MOTION
FOR APPOINTMENT OF PRO BONO
COUNSEL WITHOUT PREJUDICE
(ECF NO. 106)

Shannon Riley (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action filed pursuant to 42 U.S.C. § 1983.

On September 10, 2018, Plaintiff filed a motion for appointment of pro bono counsel. (ECF No. 106). Plaintiff asks for appointment of counsel because he has health issues (mental and physical), because he is unlearned about § 1983, civil procedure, and the rules of evidence, because he is currently engaged in a discovery dispute with Defendants and has not yet been able to obtain any relevant documentary evidence, because an attorney could help Plaintiff negotiate a settlement, because Plaintiff is unable to take necessary depositions, and because Plaintiff was recently transferred and does not have access to his property.

Plaintiff does not have a constitutional right to appointed counsel in this action, Rand v.

1 Rowland, 113 F.3d 1520, 1525 (9th Cir. 1997), withdrawn in part on other grounds, 154 F.3d 952
2 (9th Cir. 1998), and the Court cannot require an attorney to represent Plaintiff pursuant to 28
3 U.S.C. § 1915(e)(1). Mallard v. United States District Court for the Southern District of Iowa,
4 490 U.S. 296, 298, 109 S.Ct. 1814, 1816 (1989). However, in certain exceptional circumstances
5 the Court may request the voluntary assistance of counsel pursuant to section 1915(e)(1). Rand,
6 113 F.3d at 1525.

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

12 The Court will not order appointment of pro bono counsel at this time. The Court has
13 reviewed the record in this case, and at this time the Court is unable to make a determination that
14 Plaintiff is likely to succeed on the merits of his claims. Moreover, it appears that Plaintiff can
15 adequately articulate his claims.

16 Plaintiff is advised that he is not precluded from renewing his motion for appointment of
17 pro bono counsel at a later stage of the proceedings.

18 For the foregoing reasons, IT IS ORDERED that Plaintiff’s motion for appointment of pro
19 bono counsel is DENIED without prejudice.

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21 IT IS SO ORDERED.

22 Dated: September 12, 2018

23 /s/ Eric P. Gray
24 UNITED STATES MAGISTRATE JUDGE
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