

1 Plaintiffs do not have a constitutional right to appointed counsel in § 1983 actions. *Rand v.*
2 *Rowland*, 113 F.3d 1520, 1525 (9th Cir. 1997), *withdrawn in part on other grounds on reh'g en banc*,
3 154 F.2d 952 (9th Cir. 1998). Additionally, the Court cannot require an attorney to represent a party
4 under 28 U.S.C. § 1915(e)(1). *See Mallard v. U.S. Dist. Court*, 490 U.S. 296, 304-05 (1989). However,
5 in “exceptional circumstances,” the Court may request the voluntary assistance of counsel pursuant to
6 section 1915(e)(1). *Rand*, 113 F.3d at 1525.

7 Given that the Court has no reasonable method of securing and compensating counsel, the Court
8 will seek volunteer counsel only in extraordinary cases. In determining whether “exceptional
9 circumstances exist, a district court must evaluate both the likelihood of success on the merits [and] the
10 ability of the [plaintiff] to articulate his claims pro se in light of the complexity of the legal issues
11 involved.” *Rand*, 113 F.3d at 1525 (internal quotation marks & citations omitted).

12 In the present case, the Court does not find the required exceptional circumstances have been
13 established. While Plaintiff references prescribed medication side effects that impair his ability to
14 function on a daily basis, Plaintiff has provided insufficient information and evidence for the Court’s
15 consideration. Plaintiff has not identified what the prescribed medications are intended to treat—the
16 Court presumes the referenced medications may treat mental or emotional disorders—nor has Plaintiff
17 shown these medications have in fact been prescribed or that those prescribed medications may involve
18 incapacitating side effects.

19 Plaintiff’s physical and mental conditions alone are insufficient to warrant the appointment of
20 counsel. The Court notes that, while an incapacitating mental disability may warrant the appointment of
21 counsel in some cases, there must exist some “nexus” between the pro se litigant’s mental disorder and
22 his “ability to articulate his claims.” *McElroy v. Cox*, Civil Case No. 3:08-cv-01221-JM-AJB, 2009 WL
23 4895360 at *2-3 (E.D. Cal. Dec. 11, 2009) (evidence submitted to establish nexus; counsel appointed).

24 The Court acknowledges Plaintiff’s concern about his ability to litigate his case particularly
25 where the trial in this matter has now been set for November 15, 2022. Nevertheless, Plaintiff must
26 offer the Court more information and evidence to support his request for the appointment of counsel.
27 Plaintiff must show a nexus between any physical or mental disorder and Plaintiff’s ability to articulate
28 his claims. Plaintiff may wish to renew his request to the Court by submitting a motion accompanied by

1 additional information and evidence, and addressing the required nexus noted above, allowing for
2 proper consideration of Plaintiff's request.

3 ACCORDINGLY, it is hereby ORDERED:

4 Plaintiff's motion for the appointment of counsel (Doc. 96) is DENIED without prejudice.

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7 Dated: August 25, 2022


8 HELENA M. BARCH-KUCHTA
9 UNITED STATES MAGISTRATE JUDGE
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