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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MARIO AMADOR GONZALEZ,
Plaintiff,
v.
DR. SCHARFFENBERG and R.N. S.
SOTO,
Defendants.

Case No. 1:16-cv-01675-DAD-EPG (PC)
ORDER DENYING PLAINTIFF’S MOTION
FOR APPOINTMENT OF PRO BONO
COUNSEL
(ECF NO. 83)

Mario Gonzalez (“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 December 29, 2017, Plaintiff filed a motion for appointment of pro bono counsel. (ECF No. 83).

According to Plaintiff, he needs counsel appointed because of his indigence, his regressive mental health, his need for a staff assistant regarding administrative matters, his inability to possess large volumes of books and records in his cell, and his inability to access a traditional law library and other legal resources.

Plaintiff does not have a constitutional right to appointed counsel in this action, Rand v. Rowland, 113 F.3d 1520, 1525 (9th Cir. 1997), withdrawn in part on other grounds, 154 F.3d 952 (9th Cir. 1998), and the Court cannot require an attorney to represent Plaintiff pursuant to 28

1 U.S.C. § 1915(e)(1), Mallard v. United States District Court for the Southern District of Iowa,
2 490 U.S. 296, 298, 109 S.Ct. 1814, 1816 (1989). However, in certain exceptional circumstances
3 the Court may request the voluntary assistance of counsel pursuant to section 1915(e)(1). Rand,
4 113 F.3d at 1525.

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

10 The Court will not order appointment of pro bono counsel at this time. The Court has
11 reviewed the record in this case, and at this time the Court cannot make a determination that Plaintiff
12 is likely to succeed on the merits of his claims. Moreover, while there have been some issues, based
13 on the record in this case it appears that Plaintiff can adequately articulate his claims and respond to
14 court orders.

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

17 For the foregoing reasons, Plaintiff’s motion for appointment of pro bono counsel is DENIED
18 without prejudice.

19 IT IS SO ORDERED.

20
21 Dated: January 3, 2018

/s/ Eric P. Gray
22 UNITED STATES MAGISTRATE JUDGE