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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JERRY LEE KING,
Plaintiff,
v.
R. VILLEGAS and P. CRUZ,
Defendants.

Case No. 1:17-cv-00676-AWI-EPG (PC)
ORDER DENYING PLAINTIFF’S MOTION
FOR APPOINTMENT OF PRO BONO
COUNSEL WITHOUT PREJUDICE
(ECF NO. 25)

Jerry King (“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 May 31, 2018, Plaintiff filed a motion for appointment of pro bono counsel. (ECF No. 25).

Plaintiff asks for appointment of counsel because he cannot afford counsel, he has limited knowledge of the law, he has extremely limited access to the law library, he has no ability to investigate the facts of this case, and the issues in this case are complex.¹

¹ Plaintiff alleges that this case is complex in part because he has a claim against supervisors, as well as a medical care claim. However, this case is only proceeding “on Plaintiff’s claims for excessive force in violation of the Eighth Amendment against defendants R. Villegas and P. Cruz.” (ECF No. 14, p. 2; ECF No. 20, p. 2).

1 Plaintiff does not have a constitutional right to appointed counsel in this action, Rand v.
2 Rowland, 113 F.3d 1520, 1525 (9th Cir. 1997), withdrawn in part on other grounds, 154 F.3d 952
3 (9th Cir. 1998), and the Court cannot require an attorney to represent Plaintiff pursuant to 28
4 U.S.C. § 1915(e)(1). Mallard v. United States District Court for the Southern District of Iowa,
5 490 U.S. 296, 298, 109 S.Ct. 1814, 1816 (1989). However, in certain exceptional circumstances
6 the Court may request the voluntary assistance of counsel pursuant to section 1915(e)(1). Rand,
7 113 F.3d at 1525.

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

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

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

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

21 IT IS SO ORDERED.

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23 Dated: June 11, 2018

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