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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

MARK SHANE THOMPSON,)	Case No.: 1:18-cv-00125-NONE-SAB (PC)
)	
Plaintiff,)	
)	ORDER GRANTING PLAINTIFF’S MOTION FOR
v.)	EXTENSION OF TIME TO FILE AN
)	OPPOSITION, AND DENYING THIRD REQUEST
A. GOMEZ, et al.,)	FOR APPOINTMENT OF COUNSEL, WITHOUT
)	PREJUDICE
Defendants.)	
)	(ECF No. 87)
)	

Plaintiff Mark Shane Thompson is appearing *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983.

Currently before the Court is Plaintiff’s motion for an extension of time to file an opposition to Defendants’ motion for summary judgment and third request for appointment of counsel, filed July 29, 2021. On the basis of good cause, the Court will grant Plaintiff’s motion for an extension. However, Plaintiff’s motion for appointment of counsel shall be denied.

Plaintiff does not have a constitutional right to appointed counsel in this action, Rand v. Rowland, 113 F.3d 1520, 1525 (9th Cir. 1997), and the court cannot require any attorney to represent plaintiff pursuant to 28 U.S.C. § 1915(e)(1). Mallard v. United States District Court for the Southern District of Iowa, 490 U.S. 296, 298 (1989). However, in certain exceptional circumstances the court may request the voluntary assistance of counsel pursuant to section 1915(e)(1). Rand, 113 F.3d at 1525. Without a reasonable method of securing and compensating counsel, the court will seek

1 volunteer counsel only in the most serious and exceptional cases. In determining whether
2 “exceptional circumstances exist, the district court must evaluate both the likelihood of success on the
3 merits [and] the ability of the [plaintiff] to articulate his claims pro se in light of the complexity of the
4 legal issues involved.” Id. (internal quotation marks and citations omitted).

5 In the present case, the Court does not find the required exceptional circumstances. Plaintiff is
6 proceeding on a claim of excessive force and the legal issues present in this action are not complex,
7 and Plaintiff has thoroughly set forth his allegations in the complaint. Even if it assumed that Plaintiff
8 is not well versed in the law and that he has made serious allegations which, if proved, would entitle
9 him to relief, his case is not exceptional. The Court is faced with similar cases almost daily. While
10 the Court recognizes that Plaintiff is at a disadvantage due to his pro se status and his incarceration,
11 the test is not whether Plaintiff would benefit from the appointment of counsel. See Wilborn v.
12 Escalderon, 789 F.2d 1328, 1331 (9th Cir. 1986) (“Most actions require development of further facts
13 during litigation and a pro se litigant will seldom be in a position to investigate easily the facts
14 necessary to support the case.”) The test is whether exception circumstances exist and here, they do
15 not. While a pro se litigant may be better served with the assistance of counsel, so long as a pro se
16 litigant, such as Plaintiff in this instance, is able to “articulate his claims against the relative
17 complexity of the matter,” the “exceptional circumstances” which might require the appointment of
18 counsel do not exist. Rand v. Rowland, 113 F.3d at 1525 (finding no abuse of discretion under 28
19 U.S.C. § 1915(e) when district court denied appointment of counsel despite fact that pro se prisoner
20 “may well have fared better-particularly in the realm of discovery and the securing of expert
21 testimony.”) To the extent Plaintiff contends that he does not understand the pending motion for
22 summary judgment, Plaintiff is advised to review the Rand notice that accompanied Defendants’
23 motion which sets forth the applicable standards in opposing such motion. (ECF No. 84-11.)
24 Accordingly, Plaintiff’s third motion for the appointment of counsel shall be denied, without
25 prejudice.

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Based on the foregoing, it is HEREBY ORDERED that:

1. Plaintiff is granted thirty days from the date of service of this order to file an opposition; and
2. Plaintiff's third request for appointment of counsel is denied, without prejudice.

IT IS SO ORDERED.

Dated: July 30, 2021



UNITED STATES MAGISTRATE JUDGE