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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JOHNNY JOE HARO,
Plaintiff,
v.
T. NGUYEN, et al.,
Defendants.

Case No. 1:22-cv-00448-EPG (PC)

ORDER DENYING PLAINTIFF’S REQUEST
FOR APPOINTMENT OF PRO BONO
COUNSEL, WITHOUT PREJUDICE

(ECF No. 40)

Johnny Haro (“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 January 12, 2023, Plaintiff filed his scheduling and discovery statement, which includes a request for appointment of pro bono counsel. (ECF No. 40). Plaintiff asks for appointment of counsel to assist him with this matter, including in deposing Defendants.

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have a constitutional right to appointed counsel in this action, Rand v. Rowland, 113 F.3d 1520, 1525 (9th Cir. 1997), withdrawn in part on other grounds, 154 F.3d 952 (9th Cir. 1998), and the Court cannot require an attorney to represent Plaintiff pursuant to 28 U.S.C. § 1915(e)(1).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.

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

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

10 Plaintiff is advised that he is not precluded from renewing his request for appointment of
11 pro bono counsel at a later stage of the proceedings.

12 For the foregoing reasons, IT IS ORDERED that Plaintiff’s request for appointment of pro
13 bono counsel is DENIED without prejudice.

14 IT IS SO ORDERED.

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16 Dated: January 17, 2023

17 /s/ Eric P. Gray
18 UNITED STATES MAGISTRATE JUDGE
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