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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

BOBBY JAMES WILLIAMS,
Plaintiff,
v.
AJANI JACKSON,
Defendant.

No. 2:16-cv-2567-TLN-EFB P

ORDER

Plaintiff is a state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983 against defendant Ajani Jackson. ECF No. 1. He has filed three pending motions: (1) a motion for “preliminary injunction” and “temporary restraining order” (ECF No. 18); (2) a motion to appoint counsel (ECF No. 22); and (3) a motion requesting that the court order the California Health Care Facility to release plaintiff’s medical records to him (ECF No. 27).

I. Motion for Provisional Relief

His motion for “preliminary injunction” and “temporary restraining order” (ECF No. 18), is directed at four individuals who are not parties to this action (Warden Baughman, Law Librarian Dennely, C/O Schorer, and C/O Bartlett). He alleges that these nonparties are interfering with his access to the courts by denying him adequate access to the law library and he

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1 requests an order that they cease doing so. Presumably, plaintiff would like an order compelling
2 these individuals to grant him access to the law library.¹

3 Rather than seeking some early remedy from defendant for a wrong alleged in this action,
4 plaintiff's motion seeks an order compelling nonparties to take a course of action plaintiff
5 believes will be necessary for his litigation of this case. This request is thus not for a preliminary
6 injunction or temporary restraining order, but is more correctly viewed as a request for an
7 interlocutory order under the All Writs Act, 28 U.S.C. § 1651. *See generally, Fitzpatrick v.*
8 *California City*, No. 1:96-CV-5411 AWI SMS, 2014 U.S. Dist. LEXIS 67950, at *15-16 (E.D.
9 Cal. May 16, 2014).

10 The All Writs Act gives federal courts the authority to issue "all writs necessary or
11 appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of
12 law." 28 U.S.C. § 1651(a). It is meant to aid the court in the exercise and preservation of its
13 jurisdiction. *Plum Creek Lumber Co. v. Hutton*, 608 F.2d 1283, 1289 (9th Cir. 1979). The
14 United States Supreme Court has authorized the use of the All Writs Act in appropriate
15 circumstances against persons who, "though not parties to the original action or engaged in
16 wrongdoing, are in a position to frustrate the implementation of a court order or the proper
17 administration of justice." *United States v. N.Y. Telephone Co.*, 434 U.S. 159, 174 (1977).

18 The record contains inadequate information to properly consider plaintiff's request.
19 Accordingly, defense counsel is directed to inquire into the status of plaintiff's access to the law
20 library and to file an opposition or other appropriate response to the motion.

21 **II. Motion for Appointment of Counsel**

22 Plaintiff requests that the court appoint counsel. ECF No. 22. District courts lack
23 authority to require counsel to represent indigent prisoners in § 1983 cases. *Mallard v. U.S. Dist.*
24 *Court*, 490 U.S. 296, 298 (1989). In exceptional circumstances, the court may request an attorney
25 to voluntarily to represent such a plaintiff. See 28 U.S.C. § 1915(e)(1); *Terrell v. Brewer*, 935

26 ¹ Plaintiff's listing of the four non-parties as "defendants" in his motion suggests that
27 perhaps he wishes to bring a federal action against them for violation of his right of access to the
28 courts. If that is the case, plaintiff must file such an action separately from this one after
exhausting his available administrative remedies.

1 F.2d 1015, 1017 (9th Cir. 1991); *Wood v. Housewright*, 900 F.2d 1332, 1335-36 (9th Cir. 1990).
2 When determining whether exceptional circumstances exist, the court must consider the
3 likelihood of success on the merits as well as the ability of the plaintiff to articulate his claims pro
4 se in light of the complexity of the legal issues involved. *Palmer v. Valdez*, 560 F.3d 965, 970
5 (9th Cir. 2009).

6 Having considered those factors, the court finds there are no exceptional circumstances in
7 this case. Plaintiff states that he needs appointed counsel because he is a layman at law. ECF No.
8 22 at 1. This circumstance, which is common to the vast majority of pro se litigants, is not
9 exceptional. *Wood v. Housewright*, 900 F.2d 1332, 1335-36 (9th Cir. 1990).

10 **III. Motion for Release of Documents**

11 Plaintiff's motion for an order directing the California Health Care Facility to release his
12 medical records is denied as premature. After defendant has filed a response to the complaint, the
13 court will issue a discovery and scheduling order. Plaintiff may seek these documents through
14 the discovery process, and should file a motion asking for the court's assistance only if he cannot
15 obtain them through requests made pursuant to the ordinary discovery rules (Federal Rules of
16 Civil Procedure 26-37 & 45).

17 **IV. Order**

18 Accordingly, it is hereby ORDERED that:

- 19 1. Within 14 days of the date of this order, defense counsel shall inquire into the status of
20 plaintiff's access to the law library. Within 21 days of the date of this order, defendant
21 shall file an opposition or other appropriate response to plaintiff's March 2, 2017
22 motion (ECF No. 18).
- 23 2. Plaintiff's motion for appointment of counsel (ECF No. 22) is denied without
24 prejudice.

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3. Plaintiff's April 4, 2017 motion (ECF No. 27) is denied without prejudice as premature.

DATED: June 1, 2017.


EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE