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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

G.I.S.E., by and through his guardian ad  
litem, Eddie Sanchez,  
  
Plaintiff,  
  
v.  
  
CITY OF CHICO, CHICO POLICE  
DEPARTMENT, MARK BASS,  
  
Defendants.

No. 2:17-cv-00075-TLN-DMC

**ORDER**

This matter is before the Court on Plaintiff G.I.S.E.’s motion to appoint counsel. (ECF No. 23.) Defendants City of Chico, Chico Police Department, and Mark Bass oppose the motion. (ECF No. 25.) For the reasons set forth below, the motion is DENIED.

G.I.S.E. is a minor proceeding by and through his guardian ad litem, Eddie Sanchez.<sup>1</sup> Plaintiff initiated this action through counsel, but has not had counsel since March 19, 2018, when this Court granted former-counsel’s motion to withdraw. (ECF No. 18). Thereafter, Plaintiff was granted two extensions of time to find new counsel, each time the Court noting a minor may not proceed pro se and may not proceed through a non-attorney guardian ad litem. (ECF Nos. 20, 21.)

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<sup>1</sup> It appears Eddie Sanchez has not officially been appointed as the minor’s guardian ad litem in this case.

1 Plaintiff's motion indicates Mr. Sanchez has attempted to retain counsel on numerous  
2 occasions but has been unable to secure an attorney to take the case. Mr. Sanchez states he is  
3 unable to pay an attorney but is willing to compensate one by way of a contingency fee if Plaintiff  
4 is successful. He also provides that he is unable to read or write and has been assisted by a friend  
5 in this case. Plaintiff asks the court to appoint an attorney and set a contingency fee percentage  
6 that the attorney will be paid. Defendants oppose the motion, primarily arguing there is no  
7 statutory or discretionary authority for the Court to appoint counsel for a minor in a civil matter.

8 As Plaintiff is aware, Mr. Sanchez cannot pursue this lawsuit on behalf of G.I.S.E.  
9 Indeed, the Ninth Circuit Court of Appeals has unequivocally held that "a parent or guardian  
10 cannot bring an action on behalf of a minor child without retaining a lawyer." *Johns v. County of San*  
11 *Diego*, 114 F.3d 874, 877 (9th Cir. 1997). And Defendant is correct that there is no general right to  
12 counsel for civil litigants. *Lassiter v. Dept. of Social Services*, 452 U.S. 18 (1981). Under 28 U.S.C.  
13 § 1915(e), the Court may "request" that counsel represent a civil litigant who is proceeding in forma  
14 pauperis. But this does not give district courts the power to make "coercive appointments of  
15 counsel." *Mallard v. United States Dist. Court*, 490 U.S. 296, 310 (1989). Moreover, a court may  
16 ask counsel to represent an indigent litigant under § 1915 only in "exceptional circumstances."  
17 Determining whether a case involves exceptional circumstances requires an evaluation of (1) the  
18 likelihood of plaintiff's success and (2) plaintiff's ability to articulate his claims in light of the  
19 complexity of the legal issues involved. *Agyeman v. Corr. Corp. of Am.*, 390 F.3d 1101, 1103 (9th  
20 Cir. 2004).

21 As an initial matter, Plaintiff is not proceeding in forma pauperis in this action. Such status  
22 requires an application to proceed as such, and a court order finding the plaintiff meets the financial  
23 constraints to constitute indigency. See 28 U.S.C. § 1915. Even if he were, it is not clear to the Court  
24 that "exceptional circumstances" exist here such that the Court could or should request counsel for  
25 Plaintiff under § 1915. As the Court is unaware of any authority requiring or even permitting  
26 appointment of counsel in this matter, Plaintiff's motion (ECF No. 23) is DENIED.

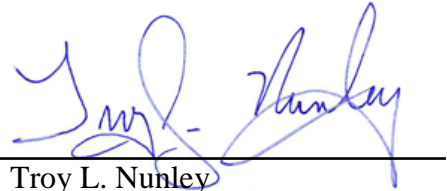
27 The Court is sympathetic to Plaintiff's predicament. But the Ninth Circuit has held that if a  
28 lawyer is not secured to bring suit on a minor's behalf, the complaint should be dismissed without

1 prejudice so the minor may bring the action upon reaching the age of majority. Johns, 114 F.3d at  
2 878.

3 Because it appears Mr. Sanchez has been attempting to find a lawyer for his grandson,  
4 however, Plaintiff shall have one final extension of time to retain counsel in this matter. Not later  
5 than sixty days from the date of electronic filing of this Order, new counsel shall file a notice of  
6 association on the docket. Plaintiff is advised that a local bar association may be able to assist in  
7 finding counsel under a contingency fee arrangement or, possibly, pro bono. If Plaintiff is unable to  
8 retain counsel, this matter will be dismissed without prejudice and without further notice to the  
9 parties. See Johns, 114 F.3d at 878 n.2 (holding minor plaintiff's claims should be dismissed  
10 without prejudice so the plaintiff may bring them when he reaches the age of majority, and noting  
11 that generally state statutes of limitations "often toll causes of action for minors" but expressing  
12 no opinion on which causes of action, if any, were tolled in that particular case).

13 IT IS SO ORDERED.

14 DATED: September 1, 2020

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18 Troy L. Nunley  
19 United States District Judge  
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