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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

VILAYCHITH KHOUANMANY,

Plaintiff,

v.

UNITED STATES MARSHALS, et al.,

Defendants.

No. 2:17-cv-1326-TLN-EFB P

ORDER

Plaintiff is a federal prisoner proceeding pro se with claims premised under *Bivens v. Six Unknown Named Agents*, 403 U.S. 388 (1971). She has filed a motion for an order requiring the Custodian of Records for the Eastern District of California, U.S. Marshals Service, and the Custodian of Records for the Sheriff of Sacramento County to produce documents in response to a subpoena duces tecum personally served upon each of them on February 27, 2018. ECF Nos. 44 & 45. She also seeks an extension of time to file an amended complaint and an order appointing her counsel. As discussed below, the court orders each Custodian of Records to file a response to plaintiff's motion to produce documents. In addition, plaintiff's request for an extension of time is granted and the motion for appointment of counsel is denied without prejudice.

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1           **I.       Subpoena Duces Tecum**

2           On February 27, 2018, the U.S. Marshal personally served a subpoena duces tecum upon  
3 each Custodian of Records. ECF Nos. 44 & 45. The subpoena directed each Custodian of  
4 Records to produce certain documents that may assist plaintiff in identifying the unnamed  
5 employees of the U.S. Marshals Service who plaintiff intends to name as defendants. *See* ECF  
6 No. 42. The subpoena required that the requested documents be produced by March 28, 2018.  
7 *Id.* The time for responding has passed and no objections have been filed. According to  
8 plaintiff, the subpoena has been ignored. ECF No. 46. Accordingly, each Custodian of Records  
9 is directed to respond to plaintiff’s motion to produce documents. Alternatively, they may  
10 produce the requested documents and provide notice to the court of the same. Should a Custodian  
11 of Records fail to comply with this order, he or she will be directed to personally appear before  
12 this Court and show cause why sanctions should not be imposed. *See* Fed. R. Civ. P. 45(g).

13           **II.       Request for Extension of Time**

14           Plaintiff requests an extension of time to file an amended complaint pending resolution of  
15 her motion to produce documents. ECF No. 47. Plaintiff’s request is granted to the extent that  
16 she will have another 90 days from the date this order is filed to file her amended complaint.

17           **III.       Request for Appointment of Counsel**

18           Plaintiff requests that the court appoint counsel. District courts lack authority to require  
19 counsel to represent indigent prisoners in section 1983 cases. *Mallard v. United States Dist.*  
20 *Court*, 490 U.S. 296, 298 (1989). In exceptional circumstances, the court may request an attorney  
21 to voluntarily to represent such a plaintiff. *See* 28 U.S.C. § 1915(e)(1); *Terrell v. Brewer*, 935  
22 F.2d 1015, 1017 (9th Cir. 1991); *Wood v. Housewright*, 900 F.2d 1332, 1335-36 (9th Cir. 1990).  
23 When determining whether “exceptional circumstances” exist, the court must consider the  
24 likelihood of success on the merits as well as the ability of the plaintiff to articulate her claims pro  
25 se in light of the complexity of the legal issues involved. *Palmer v. Valdez*, 560 F.3d 965, 970  
26 (9th Cir. 2009). Having considered those factors, the court finds there are no exceptional  
27 circumstances in this case.

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**IV. Order**

Accordingly, IT IS HEREBY ORDERED:

1. The Clerk of the Court shall serve a copy of this order and plaintiff’s motion to produce documents (ECF No. 46) on (a) the Custodian of Records for the Eastern District of California, U.S. Marshals Service, 501 I Street, Sacramento, California, 95814, and (b) the Custodian of Records for the Sheriff of Sacramento County, 651 I Street, Sacramento, California, 95814.
2. Within fourteen days of the date of this order, each Custodian of Records shall respond to plaintiff’s motion to produce documents (ECF No. 46). Alternatively, they may produce the requested documents and provide notice to the court of the same.
3. Plaintiff’s request for an extension of time (ECF No. 47) is granted to the extent that she will have 90 days from the date of this order to file her amended complaint.
4. Plaintiff’s request for the appointment of counsel (ECF No. 48) is denied without prejudice.

DATED: May 14, 2018.

  
EDMUND F. BRENNAN  
UNITED STATES MAGISTRATE JUDGE