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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

LAFONZO R. TURNER,

 Plaintiff,

 v.

S. BYER,

 Defendant.

No. 2:17-cv-1869 EFB P

ORDER

Plaintiff is a state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983. He filed this action in September of 2017. ECF No. 1. In September of 2018, plaintiff – using the assistance of another inmate – moved for appointment of counsel. ECF No. 22. He stated that, in July of 2018, he suffered a traumatic brain injury which left him afflicted with: (1) ‘confusion’; (2) impairment of his vision; (3) headaches; (4) dizziness; (5) an inability to concentrate; and (6) confinement to a wheelchair. *Id.* at 1-2. The court denied that motion. ECF No. 24.

Now, plaintiff (once more with assistance from another inmate) has renewed his request for counsel and again states that his medical condition prevents him from litigating this action. ECF No. 39 at 1-2. In his motion plaintiff points out that, in another case before this district, Magistrate Judge Claire found that his medical condition warranted appointment of counsel. *Id.*

1 at 4-5. While that appointment occurred in September of 2018 – nearly one year ago (*id.*),
2 plaintiff has not provided any records which reflect upon his current medical condition. Absent
3 such records, the court cannot determine whether plaintiff’s current condition meets the
4 “exceptional circumstances” which would warrant appointment of counsel. *See* 28 U.S.C.
5 § 1915(e)(1); *Terrell v. Brewer*, 935 F.2d 1015, 1017 (9th Cir. 1991); *Wood v. Housewright*, 900
6 F.2d 1332, 1335-36 (9th Cir. 1990). However, the counsel representing Mr. Turner in the case
7 before Judge Claire – Mr. Alexander Nowinski – has agreed to accept a limited appointment for
8 the purpose of obtaining Turner’s medical records and submitting them to the court. The court
9 will, upon receipt, examine the records and determine whether further appointment of counsel is
10 warranted.
11

12 Accordingly, it is ORDERED that:

13
14 1. Mr. Alexander Nowinski is appointed as counsel for Mr. Turner for the limited
15 purpose of obtaining his medical records and submitting them to the court.G:2. Within sixty
16 days from the date of service of this order, plaintiff (through Mr. Nowinski) shall submit, to the
17 court and under seal, all of Mr. Turner’s medical records which date from July 2018 to the
18 present. Plaintiff is directed to Local Rule 141 for the procedure to submit documents to be
19 sealed.
20

21 3. The court will defer ruling on defendant’s motion to dismiss (ECF No. 38) until
22 plaintiff’s motion to appoint counsel is resolved.

23 DATED: December 12, 2019.

24 
25 EDMUND F. BRENNAN
26 UNITED STATES MAGISTRATE JUDGE
27
28