

1
2
3
4
5 UNITED STATES DISTRICT COURT
6 NORTHERN DISTRICT OF CALIFORNIA
7

8 DENNIS LAMAR JAMES, JR.,

No. C 13-1092 SI (pr)

9 Plaintiff,

ORDER EXTENDING DEADLINES

10 v.

11 HAYWARD POLICE DEPARTMENT;
12 et al.,

13 Defendants.
14 _____/


15 Plaintiff has requested an extension of the deadline to file his opposition to defendants'
16 motion for summary judgment. Upon due consideration, plaintiff's request is GRANTED.
17 Docket # 43, # 44. No later than **October 27, 2015**, plaintiff must file and serve on defense
18 counsel his opposition to the motion for summary judgment. *No further extensions of this*
19 *deadline should be expected because, by the time it arrives, plaintiff will have had four months*
20 *to prepare his opposition.* No later than **November 9, 2015**, defendants must file and serve their
21 reply brief, if any.

22 Plaintiff has requested appointment of counsel to assist him in this action. A district court
23 has the discretion under 28 U.S.C. § 1915(e)(1) to designate counsel to represent an indigent civil
24 litigant in exceptional circumstances. *See Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir.
25 1986). This requires an evaluation of both the ability of the plaintiff to articulate his claims *pro*
26 *se* in light of the complexity of the legal issues involved and the likelihood of success on the
27 merits. *See id.* Neither of these factors is dispositive and both must be viewed together before
28 deciding on a request for counsel under § 1915(e)(1). Plaintiff's hospitalization presents an
unusual circumstance, but the attorney appointed to investigate his competency to proceed has
reported that he is competent. *See* Docket # 38. Plaintiff had no problem articulating his claims

1 in this action (including municipal liability) at a time when he presumably had the same mental
2 illness he now has. He also has filed several prior actions in which he has ably represented
3 himself. There also appears to be a low likelihood of success on the merits. Exceptional
4 circumstances requiring the appointment of counsel are not present in this action. Plaintiff's
5 request for appointment of counsel therefore is DENIED. Docket # 44 at 1.

6 IT IS SO ORDERED.

7 Dated: September 8, 2015



8 SUSAN ILLSTON
9 United States District Judge
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28