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5 UNITED STATES DISTRICT COURT
6 NORTHERN DISTRICT OF CALIFORNIA
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8 BERNARDOS GRAY, JR.,

No. C 13-4929 SI (pr)

9 Plaintiff,

SCHEDULING ORDER

10 v.

11 G. D. LEWIS; et al.,

12 Defendants.
13 _____/

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15 Bernardos Gray, Jr. filed this *pro se* prisoner's civil rights action under 42 U.S.C. § 1983
16 alleging violations of his religious freedom rights. The court reviewed the complaint, found that
17 it stated cognizable claims, ordered service of process on six defendants, and set a briefing
18 schedule for dispositive motions. Plaintiff then filed a motion to amend, indicating he wanted
19 to file an amended complaint. The court granted him leave to file an amended complaint no later
20 than June 6, 2014, and stated that a new briefing schedule for dispositive motions would be set
21 if he did not file an amended complaint by that deadline. Plaintiff did not file an amended
22 complaint.

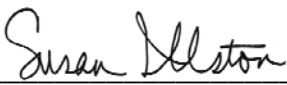
23 A month after the deadline to file an amended complaint had passed, plaintiff moved for
24 appointment of counsel to represent him in this action. A district court has the discretion under
25 28 U.S.C. §1915(e)(1) to designate counsel to represent an indigent civil litigant in exceptional
26 circumstances. *See Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986). This requires
27 an evaluation of both the likelihood of success on the merits and the ability of the plaintiff to
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1 articulate his claims *pro se* in light of the complexity of the legal issues involved. *See id.*
2 Neither of these factors is dispositive and both must be viewed together before deciding on a
3 request for counsel under § 1915(e)(1). Here, exceptional circumstances requiring the appoint-
4 ment of counsel are not evident. Although plaintiff states he is being treated for incompetency
5 and has little access to a law library, he adequately articulated his claims in his very detailed
6 complaint, cited relevant statutes and constitutional provisions, and attached to his complaint
7 documents indicating he was able to articulate his position in the inmate appeal process. (He
8 also is actively pursuing a case with unrelated claims in the Eastern District, *Gray v. Virga*, E.
9 D. Cal. No. 2:12-cv-3006 KJM.) Plaintiff's motion for appointment of counsel is DENIED.
10 (Docket # 30.)

11 In order to move this action toward resolution, the court sets the following new briefing
12 schedule for dispositive motions: Defendants must file and serve their dispositive motion no
13 later than **October 31, 2014**. Plaintiff must file and serve on defense counsel his opposition to
14 the dispositive motion no later than **November 28, 2014**. Defendants must file and serve their
15 reply brief (if any) no later than **December 12, 2014**.

16 IT IS SO ORDERED.

17 Dated: September 9, 2014



SUSAN ILLSTON
United States District Judge

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