



1 records. In response, Defendants assert that Plaintiff's request should be denied as moot because  
2 Plaintiff was provided an opportunity to review his records on December 18, 2014, one week after  
3 Plaintiff filed the instant motion.

4 Because Plaintiff was able to review the subject records, this Court denies Plaintiff's motion  
5 as moot.

6 **2. Motion for Appointment of Counsel (doc. # 20)**

7 Plaintiff contends that exceptional circumstances exist warranting appointment of counsel in  
8 the instant case. In support, Plaintiff contends this case is complex, he is incarcerated at the Lovelock  
9 correctional facility that utilizes a request system to access legal materials and assistance, and during  
10 the November 21, 2014 settlement conference, "the State" discussed a "3-5 year stall in getting the  
11 case to trial, bombardment of motions for dismissal[], summary judgment, [and] schemes to minimize  
12 Plaintiff's suffering." Doc. # 20 at 2.

13 Defendants, in response, argue that Plaintiff's motion should be denied because no exceptional  
14 circumstances exist in the instant case. For example, Defendants argue that Koerschner v. Warden,  
15 508 F.Supp.2d 849 (D. Nev. 2007), to which Plaintiff cites, fails to support Plaintiff's motion because  
16 Koerschner establishes that an exceptional circumstances determination is highly case specific, and  
17 the court in Koerschner actually refused to find that Lovelock's law library procedures were  
18 unconstitutional. Moreover, Defendants point out that Plaintiff neither alleges any delays in receiving  
19 legal materials or assistance through Lovelock's library request system, nor identifies those materials  
20 or assistance that Plaintiff was unable to obtain as a result of the request system. Defendants further  
21 point out that Plaintiff's attempt to use the confidential discussions at the early mediation conference  
22 not only violates this Court's order regarding confidentiality, see doc. # 12 at 3, but whatever  
23 representations made at the conference were requested by the mediator and offered honestly and in  
24 accord with defense counsel's experience and routine motion practice in § 1983 cases. Defendants  
25 also "strenuously deny" Plaintiff's assertion regarding Defendants' purported "scheming." Doc. # 23  
26 at 4-5.

27 Courts have discretion, pursuant to 28 U.S.C. § 1915(e)(1), to "request" that an attorney  
28 represent indigent civil litigants upon a showing of "exceptional circumstances." See Ageyman v.

