

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

ROY TROST,  
  
v.  
GREG COX, et al.,  
  
Defendants.

Case No. 3:14-cv-00611-MMD-WGC

ORDER

**I. DISCUSSION**

On April 10, 2015, this Court entered a screening order dismissing Plaintiff's complaint in its entirety, without prejudice, with leave to amend. (Dkt. no. 3 at 10.) The Court granted Plaintiff thirty (30) days from the date of that order to file his amended complaint. (*Id.*) The Court also denied Plaintiff's motion for appointment of counsel because it did not find any exceptional circumstances warranting an appointment. (*Id.*)

On April 17, 2015, Plaintiff filed a motion to extend time to file his amended complaint. (Dkt. no. 5.) Plaintiff asks for an additional thirty (30) days to file his amended complaint. (*Id.* at 1.) The Court grants Plaintiff's motion for an extension of time. Plaintiff shall file his amended complaint on or before June 10, 2015.

On April 17, 2015, Plaintiff also filed a motion for reconsideration of the denial of appointment of counsel. (Dkt. no. 6 at 1.) Plaintiff argues that he has no knowledge of

1 the law, lacks an education, and has relied on the assistance of other inmates to file his  
2 lawsuit. (*Id.*) Plaintiff has attempted to contact several advocacy groups but has  
3 received no help. (*Id.*) Plaintiff is under severe emotional distress and cannot function  
4 without proper medical treatment for his gender identity disorder. (*Id.*) If he does not  
5 receive medical treatment soon, he will die. (*Id.*)

6 A litigant does not have a constitutional right to appointed counsel in 42 U.S.C. §  
7 1983 civil rights claims. *Storseth v. Spellman*, 654 F.2d 1349, 1353 (9th Cir. 1981).  
8 Pursuant to 28 U.S.C. § 1915(e)(1), “[t]he court may request an attorney to represent  
9 any person unable to afford counsel.” However, the court will appoint counsel for  
10 indigent civil litigants only in “exceptional circumstances.” *Palmer v. Valdez*, 560 F.3d  
11 965, 970 (9th Cir. 2009) (§ 1983 action). “When determining whether ‘exceptional  
12 circumstances’ exist, a court must consider ‘the likelihood of success on the merits as  
13 well as the ability of the petitioner to articulate his claims *pro se* in light of the complexity  
14 of the legal issues involved.” *Id.*

15 The Court acknowledges that another inmate, John Quintero, helped Plaintiff  
16 draft his original complaint. (See dkt. no. 4 at 19.) However, the Court does not find that  
17 Plaintiff’s case exhibits exceptional circumstances at this time. The Court must consider  
18 the likelihood of success on the merits and Plaintiff’s ability to articulate his complaints  
19 *pro se*. As discussed in the screening order, the Court dismissed the complaint in its  
20 entirety, with leave to amend, because Plaintiff’s allegations were too vague and  
21 conclusory for the Court to determine if Plaintiff could possibly state any claims. (Dkt.  
22 no. 3 at 5-6.) As such, Plaintiff has not demonstrated that there is a likelihood of  
23 success on the merits at this time because he has not stated any cognizable claims.  
24 Plaintiff may file another motion for an appointment for counsel after he submits his  
25 amended complaint. The Court denies Plaintiff’s motion for reconsideration of the denial  
26 of appointment of counsel.

27 ///


28 ///

1 **II. CONCLUSION**

2 For the foregoing reasons, it is ordered that the motion to extend time to file  
3 amended complaint (dkt. no. 5) is granted. Plaintiff shall file his amended complaint on  
4 or before June 10, 2015.

5 It is further ordered that the motion for reconsideration (dkt. no. 6) is denied.

6 DATED THIS 21<sup>st</sup> day of April 2015.

7   
8 \_\_\_\_\_  
9 MIRANDA M. DU  
10 UNITED STATES DISTRICT JUDGE  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28