

1 **UNITED STATES DISTRICT COURT**
2 **DISTRICT OF NEVADA**

3 * * *

4 CHRISTOPHER KELLER,

5 Plaintiff,

6 v.

7 CALVIN JOHNSON, *et al.*,

8 Defendants.

Case No. 3:23-CV-00435-CLB

**ORDER DENYING MOTION
FOR APPOINTMENT OF COUNSEL
AND/OR FOR A CONTINUANCE**

[ECF No. 31]

9
10 Before the Court is Plaintiff Christopher Keller's ("Keller") motion for appointment
11 of counsel and/or for a continuance. (ECF No. 31.) For the reasons discussed below, the
12 motion is denied.

13 **I. DISCUSSION**

14 Keller's motion seems to assert that he has been having difficulty getting discovery
15 responses from Defendants and this is the basis for requesting counsel and/or a
16 continuance. (See ECF No. 31.) However, Keller's motion does not address any of the
17 factors related to appointment of counsel, or for an extension of time.

18 To the extent Keller is requesting appointment of counsel, the request is denied.
19 There is no constitutional right to appointed counsel in a § 1983 action. *E.g., Rand v.*
20 *Rowland*, 113 F.3d 1520, 1525 (9th Cir. 1997), opinion reinstated in pertinent part, 154
21 F.3d 952, 954 n.1 (9th Cir. 1998) (en banc). The provision in 28 U.S.C. § 1915(e)(1) gives
22 the court discretion to "request an attorney to represent any person unable to afford
23 counsel." 28 U.S.C. § 1915(e)(1); *see, e.g., Wilborn v. Escalderon*, 789 F.2d 1328, 1331
24 (9th Cir. 1998) (en banc). While the decision to request counsel lies within the discretion
25 of the district court, the court may exercise this discretion to request counsel only under
26 "exceptional circumstances." *Terrell v. Brewer*, 935 F.2d 1015, 1017 (9th Cir. 1991).
27 Keller does not provide any argument to support his request for counsel, except to state
28 he is having difficulties with discovery, which is insufficient and does not constitute

1 exceptional circumstances. (See ECF No. 31.)

2 As to Keller's general request for a "continuance," the Court interprets this as a
3 request to extend discovery deadlines in this case. (See *id.*) On December 23, 2024, the
4 Court granted another motion to extend time filed by Keller and noted explicitly that "No
5 further extensions of time will be granted absent extraordinary circumstances." (ECF No.
6 28 (emphasis in original).) Keller has not shown that extraordinary circumstances exist to
7 further extend discovery, which is set to close on May 19, 2025. Therefore, this request
8 is also denied.

9 **II. CONCLUSION**

10 Accordingly, **IT IS ORDERED** that Keller's motion for appointment of counsel
11 and/or for a continuance, (ECF No. 31), is **DENIED**.

12 **DATED:** March 10, 2025

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14 UNITED STATES MAGISTRATE JUDGE
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