

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

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF CALIFORNIA

IVAN RAY CARTER, JR.,

1:08-cv-01841-AWI-DLB (PC)

Plaintiff,

ORDER DENYING MOTION FOR  
APPOINTMENT OF COUNSEL

vs.

A. FERNANDEZ, et al.,

( #52)

Defendants.

\_\_\_\_\_ /

On May 17, 2010, plaintiff filed a motion seeking the appointment of counsel. Plaintiff does not have a constitutional right to appointed counsel in this action, *Rand v. Rowland*, 113 F.3d 1520, 1525 (9th Cir. 1997), and the court cannot require an attorney to represent plaintiff pursuant to 28 U.S.C. § 1915(e)(1). *Mallard v. United States District Court for the Southern District of Iowa*, 490 U.S. 296, 298, 109 S. Ct. 1814, 1816 (1989). However, in certain exceptional circumstances the court may request the voluntary assistance of counsel pursuant to section 1915(e)(1). *Rand*, 113 F.3d at 1525.

Without a reasonable method of securing and compensating counsel, the court will seek volunteer counsel only in the most serious and exceptional cases. In determining whether “exceptional circumstances exist, the district court must evaluate both the likelihood of success of the merits [and] the ability of the [plaintiff] to articulate his claims *pro se* in light of the complexity of the legal issues involved.” *Id.* (internal quotation marks and citations omitted).

1 In the present case, the court does not find the required exceptional circumstances. Even  
2 if it is assumed that plaintiff is not well versed in the law and that he has made serious allegations  
3 which, if proved, would entitle him to relief, his case is not exceptional. This court is faced with  
4 similar cases almost daily. Based on a review of the record in this case, the court does not find  
5 that plaintiff cannot adequately articulate his claims. *Id.*

6 The Court is aware of Plaintiff's medical issues that will impede Plaintiff's ability to  
7 conduct discovery. While the Court does not find that Plaintiff has met the standard for  
8 appointment of counsel, the Court will grant Plaintiff extensions of time to conduct discovery  
9 and other court filings, if Plaintiff requests. Plaintiff should file such motions prior to the  
10 applicable deadlines.

11 For the foregoing reasons, plaintiff's motion for the appointment of counsel is HEREBY  
12 DENIED, without prejudice.

13 IT IS SO ORDERED.

14 **Dated: May 19, 2010**

**/s/ Dennis L. Beck**  
UNITED STATES MAGISTRATE JUDGE