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8 IN THE UNITED STATES DISTRICT COURT FOR THE  
9 EASTERN DISTRICT OF CALIFORNIA  
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11 SHANNON LEWIS AVERY, SR.,

1:09-cv-00321-LJO-DLB (PC)

12 Plaintiff,

13 vs.

ORDER DENYING MOTION FOR  
APPOINTMENT OF COUNSEL

14 SUZAN L. HUBBARD, et al.,

( #27)

15 Defendants.  
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17 On March 31, 2010, plaintiff filed a motion seeking the appointment of counsel. Plaintiff  
18 does not have a constitutional right to appointed counsel in this action, *Rand v. Rowland*, 113  
19 F.3d 1520, 1525 (9th Cir. 1997), and the court cannot require an attorney to represent plaintiff  
20 pursuant to 28 U.S.C. § 1915(e)(1). *Mallard v. United States District Court for the Southern*  
21 *District of Iowa*, 490 U.S. 296, 298, 109 S. Ct. 1814, 1816 (1989). However, in certain  
22 exceptional circumstances the court may request the voluntary assistance of counsel pursuant to  
23 section 1915(e)(1). *Rand*, 113 F.3d at 1525.

24 Without a reasonable method of securing and compensating counsel, the court will seek  
25 volunteer counsel only in the most serious and exceptional cases. In determining whether  
26 “exceptional circumstances exist, the district court must evaluate both the likelihood of success  
27 of the merits [and] the ability of the [plaintiff] to articulate his claims *pro se* in light of the  
28 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. Further, at this early stage in the proceedings, the court cannot make a  
5 determination that plaintiff is likely to succeed on the merits, and based on a review of the record  
6 in this case, the court does not find that plaintiff cannot adequately articulate his claims. *Id.*

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

9 IT IS SO ORDERED.

10 **Dated: April 21, 2010**

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