

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

11 SHANNON LEWIS AVERY, SR., 1:09-cv-00321-LJO-DLB (PC)

Plaintiff,

13 || vs. APPPOINTMENT OF COUNSEL

14 | SUZAN L. HUBBARD, et al.,

ORDER DENYING MOTION FOR
APPOINTMENT OF COUNSEL

15 || Defendants.

(#27)

Defendants.

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.

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).

In the present case, the court does not find the required exceptional circumstances. Even if it is assumed that plaintiff is not well versed in the law and that he has made serious allegations which, if proved, would entitle him to relief, his case is not exceptional. This court is faced with similar cases almost daily. Further, at this early stage in the proceedings, the court cannot make a determination that plaintiff is likely to succeed on the merits, and based on a review of the record in this case, the court does not find that plaintiff cannot adequately articulate his claims. *Id.*

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

IT IS SO ORDERED.

Dated: April 21, 2010

/s/ Dennis L. Beck
UNITED STATES MAGISTRATE JUDGE