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

DERRICK LANE JOHNSON,  
Plaintiff,  
vs.  
S. CVAGNARO, et al.,  
Defendants.

Case No. 1:09-cv-00742 AWI JLT (PC)  
ORDER DENYING MOTION FOR  
APPOINTMENT OF COUNSEL  
(Doc. 26)

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On January 21, 2011, Plaintiff filed a motion seeking the appointment of counsel. Plaintiff is advised that he does not have a constitutional right to appointed counsel in this action, Rand v. Rowland, 113 F.3d 1520, 1525 (9th Cir. 1997), and that 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 (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. In determining whether “exceptional circumstances exist, a district court must evaluate both the likelihood of success on 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 quotations 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

1 which, if proved, would entitle him to relief, his case is not exceptional. This Court is faced with  
2 similar cases almost daily. Without a reasonable method of securing and compensating counsel, the  
3 Court will seek volunteer counsel only in the most serious and exceptional cases. Further, at this  
4 early stage in the proceedings, the Court cannot make a determination that Plaintiff is likely to  
5 succeed on the merits. And, based on a review of the record in this case, the Court does not find that  
6 Plaintiff is unable to adequately articulate his claims.

7           Accordingly, for all the reasons set forth above, it is HEREBY ORDERED that Plaintiff's  
8 motion for the appointment of counsel (Doc. 26) is DENIED.

9  
10 IT IS SO ORDERED.

11 Dated: January 26, 2011

/s/ Jennifer L. Thurston  
UNITED STATES MAGISTRATE JUDGE