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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

ANTHONY CRAIG HUCKABEE,)	Case No.: 1:09-cv-00749-DAD-BAM PC
Plaintiff,)	
v.)	ORDER DENYING PLAINTIFF’S REQUEST FOR
)	APPOINTMENT OF COUNSEL
MEDICAL STAFF at CSATF, et al.,)	(ECF No. 197)
Defendants.)	
)	
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)	

I. Background

Plaintiff Anthony Craig Huckabee (“Plaintiff”), a state prisoner, initiated this civil rights action pursuant to 42 U.S.C. § 1983 on April 28, 2009. On January 10, 2017, the undersigned screened Plaintiff’s fifth amended complaint, filed on May 2, 2016, and recommended that this case proceed on Plaintiff’s claims for deliberate indifference to serious medical needs in violation of the Eighth Amendment against Defendants Wu, McGuiness, Enenmoh, Jeffreys, and Jimenez. Those findings and recommendations are before the District Judge for further consideration.

On July 26, 2013, the Court granted appointed counsel’s motion to withdraw and substituted Plaintiff in pro se. (ECF No. 64.) On August 14, 2013, Plaintiff filed a renewed motion for the appointment of counsel. (ECF No. 73.) On August 20, 2013, the Court denied the renewed request for appointment of counsel, finding that the matter did not present exceptional circumstances and that Plaintiff had been able to articulate his position in various filings. (ECF No. 74.)

1 On January 16, 2014, Plaintiff filed a renewed motion requesting the appointment of counsel.
2 (ECF No. 114.) On March 24, 2014, the Court denied the renewed request for appointment of
3 counsel, again finding that the matter did not present exceptional circumstances and that Plaintiff had
4 been able to articulate his position in various filings. (ECF No. 128.)

5 On April 3, 2017, Plaintiff filed the instant motion requesting the appointment of counsel.
6 (ECF No. 197.)

7 **II. Legal Standard**

8 As Plaintiff was previously informed, he does not have a constitutional right to appointed
9 counsel in this action, Rand v. Rowland, 113 F.3d 1520, 1525 (9th Cir. 1997), reversed in part on
10 other grounds, 154 F.3d 952, 954 n.1 (9th Cir. 1998), and the court cannot require an attorney to
11 represent plaintiff pursuant to 28 U.S.C. § 1915(e)(1). Mallard v. United States District Court for the
12 Southern District of Iowa, 490 U.S. 296, 298, 109 S. Ct. 1814, 1816 (1989). However, in certain
13 exceptional circumstances the court may request the voluntary assistance of counsel pursuant to
14 section 1915(e)(1). Rand, 113 F.3d at 1525.

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

20 **III. Discussion**

21 Plaintiff requests the appointment of counsel to assist him in conducting research and
22 performing other unspecified legal matters. In support of his request, Plaintiff contends that this is a
23 complicated case, that he has been found to have cognizable federal claims, and that due to his visual
24 limitations he is unable to proceed on his own.

25 The Court has considered Plaintiff’s third motion for the appointment of counsel, but again
26 does not find the required exceptional circumstances. As previously indicated, this Court is faced with
27 similar cases involving claims of deliberate indifference to serious medical needs filed by prisoners
28 proceeding in forma pauperis and suffering various medical conditions almost daily. These prisoners

1 also must conduct legal research and prosecute medical claims without the assistance of counsel.
2 Plaintiff has provided no new considerations or changed circumstances indicating that he is unable to
3 proceed in this matter without the assistance of counsel.

4 Plaintiff's assertions regarding the limitations imposed by his medical conditions also have
5 been taken into consideration. Although Plaintiff believes that he has been unable to articulate the
6 merits of his case, the record indicates that Plaintiff has submitted documents to the Court for
7 consideration without the assistance of counsel or another inmate. (ECF Nos. 30, 59, 69, 70, 71, 73,
8 76, 120, 181, 190, 191, and 197.) These submissions demonstrate that Plaintiff is able to prepare and
9 file documents that clearly set forth his contentions without any assistance. Thus, based on the record
10 in this case, the Court does not find that Plaintiff cannot adequately articulate his claims.

11 Furthermore, at this stage in the proceedings, the Court cannot make a determination that
12 Plaintiff is likely to succeed on the merits. Plaintiff notes that this Court has found he stated
13 cognizable federal claims of deliberate indifference, (ECF No. 197, p. 3), but this is not equivalent to a
14 determination that he is likely to succeed on the merits. Although the Court has determined Plaintiff
15 has stated some claims which may proceed in litigation, it has not determined that those claim have a
16 likelihood of being ultimately successful.

17 For the foregoing reasons, Plaintiff's motion for the appointment of counsel is **HEREBY**
18 **DENIED** without prejudice. Plaintiff again is reminded that, as necessary and appropriate, he may
19 seek extensions of time for relevant case deadlines. Fed. R. Civ. P. 6(b)(1).

20
21 IT IS SO ORDERED.

22 Dated: April 6, 2017

23 /s/ Barbara A. McAuliffe
24 UNITED STATES MAGISTRATE JUDGE
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