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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

DOUGAL SAMUELS,  
Plaintiff,  
v.  
PAM AHLIN, et al.,  
Defendants.

1:10-cv-00585-EPG (PC)  
ORDER DENYING PLAINTIFF’S MOTION  
FOR APPOINTMENT OF PRO BONO  
COUNSEL  
(ECF NO. 51)

Dougal Samuels (“Plaintiff”) is a civil detainee proceeding *pro se* and *in forma pauperis* in this civil rights action filed pursuant to 42 U.S.C. § 1983. On January 17, 2017, Plaintiff filed a request for appointment of pro bono counsel. (ECF No. 51).

According to Plaintiff, he needs counsel appointed because this case is complex, because this case will require considerable discovery, because there will be conflicting testimony, and because he is unable to investigate the facts of this case due to his detention.

Plaintiff does not have a constitutional right to appointed counsel in this action, Rand v. Rowland, 113 F.3d 1520, 1525 (9th Cir. 1997), withdrawn in part on other grounds, 154 F.3d 952 (9th Cir. 1998), and the Court cannot require an attorney to represent Plaintiff pursuant to 28 U.S.C. § 1915(e)(1).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,

1 490 U.S. 296, 298, 109 S.Ct. 1814, 1816 (1989). However, in certain exceptional circumstances  
2 the Court may request the voluntary assistance of counsel pursuant to section 1915(e)(1). Rand,  
3 113 F.3d at 1525.

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

9 The Court will not order appointment of pro bono counsel at this time. At this early stage in  
10 the proceedings, the Court cannot make a determination that Plaintiff is likely to succeed on the  
11 merits. While at the screening stage Plaintiff’s complaint was found to state a claim (ECF Nos. 22,  
12 24, & 41), there is currently a pending motion to dismiss (ECF No. 45). Moreover, based on the  
13 record in this case, the Court finds that Plaintiff can adequately articulate his claims and respond to  
14 court orders. Plaintiff is advised that he is not precluded from renewing the motion for appointment  
15 of pro bono counsel at a later stage of the proceedings.

16 For the foregoing reasons, Plaintiff’s motion for appointment of pro bono counsel is DENIED  
17 without prejudice.

18 IT IS SO ORDERED.

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20 Dated: January 19, 2017

21 /s/ Eric P. Gray  
22 UNITED STATES MAGISTRATE JUDGE  
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