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

STEVE WILHELM,

1:10-cv-01663-LJO-DLB (PC)

Plaintiff,

ORDER DENYING MOTION FOR  
APPOINTMENT OF COUNSEL

vs.

ANTHONY ENENMOH, et al.,

(MOTION #85)

Defendants.

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Plaintiff is a state prisoner proceeding pro se and in forma pauperis in this civil rights action. On August 20, 2013, the Court granted Defendants' motion for summary judgment and entered judgment. On September 5, 2013, Plaintiff filed a Notice of Appeal and the appeal was processed to the Ninth Circuit.

Also on September 5, 2013, Plaintiff filed a motion seeking the appointment of counsel.

Plaintiff does not have a constitutional right to appointed counsel in this action, Rand v. Rowland, 113 F.3d 1520, 1525 (9th Cir. 1997), 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, 490 U.S. 296, 298, 109 S.Ct. 1814, 1816 (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.

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

6 Given that judgment has been entered in favor of Defendants and the matter is currently  
7 on appeal, there are no exceptional circumstances warranting the voluntary assistance of counsel  
8 for any proceedings before this Court. Accordingly, Plaintiff’s motion for the appointment of  
9 counsel is DENIED. To the extent Plaintiff seeks the appointment of counsel on appeal, Plaintiff  
10 may wish to pursue his request with the Ninth Circuit Court of Appeals.

11 IT IS SO ORDERED.

12 **Dated: September 6, 2013**

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