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

JEROME WHITE,

1:11-cv-00047-AWI-GSA (PC)

Plaintiff,

ORDER DENYING MOTION FOR  
APPOINTMENT OF COUNSEL

vs.

PATEL, et al.,

(DOCUMENT #20)

Defendants.

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On May 24, 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.

Without a reasonable method of securing and compensating counsel, the court will seek volunteer counsel only in the most serious and exceptional cases. In determining whether “exceptional circumstances exist, the district court must evaluate both the likelihood of success of 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 quotation marks and citations omitted).

1 In the present case, the court does not find the required exceptional circumstances. At this  
2 stage of the proceedings, the court cannot make a determination that plaintiff is likely to succeed  
3 on the merits. While the Marshal has been ordered to serve process, none of the defendants has  
4 been served or made an appearance. Based on the record in this case, the court does not find that  
5 plaintiff cannot adequately articulate his claims. Further, the legal issue in this case – whether  
6 defendants failed to provide adequate medical care under the Eighth Amendment – is not complex,  
7 and this court is faced with similar cases almost daily. Therefore, plaintiff’s motion shall be denied  
8 without prejudice to renewal of the motion at a later stage of the proceedings.

9 Accordingly, based on the foregoing, plaintiff’s motion for the appointment of counsel is  
10 HEREBY DENIED, without prejudice.

11 IT IS SO ORDERED.

12 **Dated: May 30, 2013**

13 **/s/ Gary S. Austin**  
14 UNITED STATES MAGISTRATE JUDGE