

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

11 TONI LEVINGSTON, Case No. 1:11-cv-0309-MJS (PC)
12 Plaintiff,
13 vs. ORDER DENYING MOTIONS FOR
14 BONDOD, et al., APPOINTMENT OF COUNSEL
15 Defendants. (ECF Nos. 12 & 13)

On May 12, 2011 and May 19, 2011, Plaintiff filed Motions seeking the appointment of counsel.

19 Plaintiff does not have a constitutional right to appointed counsel in this action, Rand
20 v. Rowland, 113 F.3d 1520, 1525 (9th Cir. 1997), and the court cannot require an attorney
21 to represent plaintiff pursuant to 28 U.S.C. § 1915(e)(1). Mallard v. United States District
22 Court for the Southern District of Iowa, 490 U.S. 296, 298, 109 S.Ct. 1814, 1816 (1989).
23 In certain exceptional circumstances the court may request the voluntary assistance of
24 counsel pursuant to section 1915(e)(1). Rand, 113 F.3d at 1525. However, without a
25 reasonable method of securing and compensating counsel, the Court will seek volunteer
26 counsel only in the most serious and exceptional cases. In determining whether
27 "exceptional circumstances exist, the district court must evaluate both the likelihood of
28 success of the merits [and] the ability of the [plaintiff] to articulate his claims *pro se* in light

1 of the complexity of the legal issues involved." Id. (internal quotation marks and citations
2 omitted).

3 In support of her Motions, Plaintiff contends that he has no legal training and is not
4 knowledgeable about how to litigate. The Court does not find that these circumstances
5 constitute the required exceptional circumstances. This Court is faced with similar cases
6 filed by similarly untrained prisoners almost daily. Further, at this early stage in the
7 proceedings, the Court cannot make a determination that Plaintiff is likely to succeed on
8 the merits, and based on a review of the record in this case, the Court does not find that
9 plaintiff cannot adequately articulate his claims. Id.

10 For the foregoing reasons, Plaintiff's Motions for the appointment of counsel are
11 HEREBY DENIED, without prejudice.

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14 IT IS SO ORDERED.

15 Dated: June 14, 2011

/s/ Michael J. Seng
16 UNITED STATES MAGISTRATE JUDGE

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