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

BRIAN ESPRITT,

1:11-cv-0519-OWW-MJS (PC)

Plaintiff,

ORDER DENYING MOTION FOR
APPOINTMENT OF COUNSEL

vs.

A. SAESEE, et. al.,

(ECF No. 7)

Defendants.

/

On June 3, 2011, 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). 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. However, 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

1 omitted).

2 Plaintiff alleges that court-appointed counsel is necessary in this case because he
3 had been declared mentally incompetent in a related criminal proceeding. (ECF No. 7.)
4 The Court is sympathetic to Plaintiff's plight but this fact alone does not constitute
5 exceptional circumstances at this point in the litigation. Plaintiff's case is awaiting
6 screening by the Court and, until such screening occurs, no further action is required by
7 Plaintiff. If this case proceeds to discovery, Plaintiff may refile his request and the Court
8 will evaluate whether, at that time and under the relevant circumstances, the appointment
9 of counsel is appropriate.

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

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14 IT IS SO ORDERED.

15 Dated: June 14, 2011

/s/ Michael J. Seng
UNITED STATES MAGISTRATE JUDGE

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