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

NEHEMIAH ROBINSON,

1:11-cv-00746 MJS (PC)

Plaintiff,

ORDER DENYING MOTION FOR  
APPOINTMENT OF COUNSEL

vs.

R.ROSENTHAL, et al,

(ECF No. 5)

Defendants.

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On June 1, 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 In the present case, the Court does not find the required exceptional circumstances.  
3 Plaintiff makes no effort to show that there are exceptional circumstances. His Motion  
4 provides only that his prosecution of this action is hampered by his imprisonment. The  
5 Court has hundreds of active civil cases being prosecuted by prisoners in the same  
6 situation as Plaintiff. It lacks the resources to appoint counsel for every prisoner. Further,  
7 at this early stage in the proceedings, the Court cannot make a determination that Plaintiff  
8 is likely to succeed on the merits, and based on a review of the record in this case, the  
9 Court does not find that plaintiff cannot adequately articulate his claims. Id.

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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