

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

MUHAMMAD NURIDDIN,)	Case No.: 1:11-cv-01448-LJO-SAB (PC)
)	
Plaintiff,)	
)	
v.)	ORDER DENYING, WITHOUT PREJUDICE,
)	PLAINTIFF'S MOTION FOR APPOINTMENT
)	OF COUNSEL
ESTRELLA, et al.,)	
)	[ECF No. 47]
Defendants.)	
)	
)	
)	

Plaintiff Muhammad Nuriddin is appearing pro se and in forma pauperis in this civil rights action pursuant to Bivens v. Six Unknown Agents, 403 U.S. 388 (1971). Bivens actions and actions under 42 U.S.C. § 1983 “are identical save for the replacement of a state actor under § 1983 by a federal actor under Bivens.” Van Strum v. Lawn, 940 F.2d 406, 409 (9th Cir. 1991).

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 any 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 (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

1 “exceptional circumstances exist, the district court must evaluate both the likelihood of success on the
2 merits [and] the ability of the [plaintiff] to articulate his claims pro se in light of the complexity of the
3 legal issues involved.” Id. (internal quotation marks and citations omitted).

4 In the present case, the Court does not find the required exceptional circumstances. Even if it
5 assumed that plaintiff is not well versed in the law and that he has made serious allegations which, if
6 proved, would entitle him to relief, his case is not exceptional. This action is proceeding on Plaintiff’s
7 claim of retaliation. The legal issues present in this action are not complex, and Plaintiff has
8 thoroughly litigated this action to date. While a pro se litigant may be better served with the assistance
9 of counsel, so long as a pro se litigant, such as Plaintiff in this instance, is able to “articulate his claims
10 against the relative complexity of the matter,” the “exceptional circumstances” which might require
11 the appointment of counsel do not exist. Rand v. Rowland, 113 F.3d at 1525 (finding no abuse of
12 discretion under 28 U.S.C. § 1915(e) when district court denied appointment of counsel despite fact
13 that pro se prisoner “may well have fared better-particularly in the realm of discovery and the securing
14 of expert testimony.”)

15 For the foregoing reasons, Plaintiff’s motion for the appointment of counsel is HEREBY
16 DENIED, without prejudice.

17
18 IT IS SO ORDERED.

19 Dated: May 18, 2015



UNITED STATES MAGISTRATE JUDGE