

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

LANARD KITCHEN,  
Plaintiff,  
v.  
TORDSEN, et al.,  
Defendant.

CASE No. 1:12-cv-00105-AWI-MJS (PC)

**ORDER DENYING MOTION FOR  
APPOINTMENT OF COUNSEL  
(ECF No. 87)**

On June 19, 2015, 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 (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. (citations

1 omitted).

2 In the present case, the court does not find the required exceptional  
3 circumstances. Even if it is assumed that plaintiff is not well versed in the law and that  
4 he has made serious allegations which, if proved, would entitle him to relief, his case is  
5 not exceptional. This court is faced with similar cases almost daily. The court cannot  
6 make a determination that plaintiff is likely to succeed on the merits, and based on a  
7 review of the record in this case, the court does not find that plaintiff cannot adequately  
8 articulate his claims. Id.

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

11 IT IS SO ORDERED.

12  
13 Dated: June 30, 2015

/s/ Michael J. Seng  
UNITED STATES MAGISTRATE JUDGE

14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28