

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

ERIC WHEELER,  
Plaintiff,  
v.  
KATHLEEN ALISON, et al.,  
Defendants.

1:12-cv-00861-LJO-DLB (PC)  
ORDER DENYING MOTION FOR  
APPOINTMENT OF COUNSEL  
(Document# 130)

On June 30, 2014, 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). 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. (internal quotation marks and citations omitted).

1 Plaintiff requests counsel to review and depose an inmate source in a confidential  
2 memorandum submitted by Defendants during briefing of another motion. The memorandum is  
3 sealed. The Court has conducted an *in camera* review of the memorandum and finds that  
4 appointment of counsel is not warranted.

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

7  
8 IT IS SO ORDERED.

9 Dated: July 2, 2014

/s/ Dennis L. Beck  
UNITED STATES MAGISTRATE JUDGE

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28