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

JOSEPH RAYMOND MCCOY,)	Case No.: 1:12-cv-000983-AWI-SAB (PC)
)	
Plaintiff,)	
)	ORDER DENYING PLAINTIFF’S MOTION
v.)	FOR APPOINTMENT OF COUNSEL,
)	WITHOUT PREJUDICE
STRONACH, et al.,)	
)	[ECF No. 131]
Defendants.)	
)	
)	
)	

Plaintiff Joseph Raymond McCoy is appearing pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983.

Currently before the Court is Plaintiff’s motion for appointment of counsel, filed May 6, 2019. 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 “exceptional circumstances exist, the district court must evaluate both the likelihood of success on the

1 merits [and] the ability of the [plaintiff] to articulate his claims pro se in light of the complexity of the
2 legal issues involved.” Id. (internal quotation marks and citations omitted).

3 In the present case, the Court does not find the required exceptional circumstances.
4 Circumstances common to most prisoners, such as lack of legal education and limited law library
5 access, do not establish exceptional circumstances that would warrant a request for voluntary
6 assistance of counsel. Even if it assumed that Plaintiff is not well versed in the law and that he has
7 made serious allegations which, if proved, would entitle him to relief, his case is not exceptional.
8 Plaintiff alleges an Eighth Amendment claim against several defendants for denying him appropriate
9 medical attention. The legal issues present in this action are not complex, and Plaintiff has thoroughly
10 set forth his allegations in the complaint. At this time, the court cannot make a determination that
11 Plaintiff is likely to succeed on the merits, and based on a review of the record in this case, the Court
12 does not find that Plaintiff cannot adequately articulate his claims. Id.

13 While a pro se litigant may be better served with the assistance of counsel, so long as a pro se
14 litigant, such as Plaintiff in this instance, is able to “articulate his claims against the relative
15 complexity of the matter,” the “exceptional circumstances” which might require the appointment of
16 counsel do not exist. Rand v. Rowland, 113 F.3d at 1525 (finding no abuse of discretion under 28
17 U.S.C. § 1915(e) when district court denied appointment of counsel despite fact that pro se prisoner
18 “may well have fared better-particularly in the realm of discovery and the securing of expert
19 testimony.”)

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

22
23 IT IS SO ORDERED.

24 Dated: May 8, 2019



UNITED STATES MAGISTRATE JUDGE