

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JOHN ANTHONY VELLA,) Case No.: 1:12-cv-01402-SAB (PC)
Plaintiff,)
v.) ORDER DENYING MOTION FOR
EDGAR CLARK, et al.,) APPOINTMENT OF COUNSEL
Defendants.) [ECF No. 21]
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Plaintiff John Anthony Vella is appearing pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. Pursuant to 28 U.S.C. § 636(c), Plaintiff consented to the jurisdiction of the United States Magistrate Judge on September 27, 2012. Local Rule 302.

On May 23, 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 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. Even if it
4 assumed that plaintiff is not well versed in the law and that he has made serious allegations which, if
5 proved, would entitle him to relief, his case is not exceptional. Plaintiff alleges an Eighth Amendment
6 claim against several defendants for denying him appropriate medical attention. The legal issues
7 present in this action are not complex, and Plaintiff has thoroughly set forth his allegations in the
8 complaint. However, at this early stage in the proceedings, the court cannot make a determination that
9 Plaintiff is likely to succeed on the merits, and based on a review of the record in this case, the court
10 does not find that plaintiff cannot adequately articulate his claims. Id.

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

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15 IT IS SO ORDERED.

16 Dated: May 28, 2014



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UNITED STATES MAGISTRATE JUDGE