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IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF CALIFORNIA

BRIAN EDWARDS,
Plaintiff,

vs.

KERN VALLEY STATE PRISON, et al.,
Defendants.

1:12-cv-001503-GSA (PC)

ORDER DENYING MOTION FOR
APPOINTMENT OF COUNSEL

(DOCUMENT #3)

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On September 13, 2012, 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 In the present case, the court does not find the required exceptional circumstances. At this
2 early stage in the proceedings, the court cannot make a determination that plaintiff is likely to
3 succeed on the merits. Plaintiff filed this case a week ago on September 13, 2012, and the
4 Complaint awaits the court's screening process required by 28 U.S.C. § 1915. Thus, service of
5 process has not been initiated, and no other parties have appeared. Moreover, upon review of the
6 Complaint, the court does not find that plaintiff cannot adequately articulate his claims. Id., see
7 Complaint, Doc. 1. Therefore, Plaintiff's motion for appointment of counsel shall be denied
8 without prejudice to renewal of the motion at a later stage of the proceedings.

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

11 IT IS SO ORDERED.

12 **Dated: September 20, 2012**

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE