

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

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

JOSE SANTIAGO,

1:13-cv-00032-GSA (PC)

Plaintiff,

ORDER DENYING MOTION FOR  
APPOINTMENT OF COUNSEL

vs.

V. PATEL, et al.,

(MOTION #14)

Defendants.

\_\_\_\_\_ /

On March 26, 2013, 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. In  
2 the present case, the court does not find the required exceptional circumstances. At this early  
3 stage in the proceedings, the court cannot make a determination that plaintiff is likely to  
4 succeed on the merits. Plaintiff's Amended Complaint, filed on March 11, 2013, awaits the  
5 Court's screening required under 28 U.S.C. 1915. Thus, to date the Court has not found any  
6 cognizable claims in plaintiff's complaint for which to initiate service of process, and no other  
7 parties have yet appeared. The legal issue in this case – whether defendants are not providing  
8 medical supplies needed for plaintiff's colostomy care – is not complex, and this court is faced  
9 with similar cases almost daily. Moreover, based on a review of the record in this case, the  
10 Court does not find that plaintiff cannot adequately articulate his claims. Therefore, plaintiff's  
11 motion shall be denied without prejudice to renewal of the motion at a later stage of the  
12 proceedings.

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

15 IT IS SO ORDERED.

16 **Dated: March 28, 2013**

**/s/ Gary S. Austin**  
UNITED STATES MAGISTRATE JUDGE