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

THOMAS GOOLSBY, et al.,

1:13-cv-00119-GSA (PC)

Plaintiff,

ORDER DENYING MOTION FOR
APPOINTMENT OF COUNSEL

vs.

MATTHEW CATE, et al.,

(MOTION #6)

Defendants.

_____ /

On February 11, 2013, Plaintiffs filed a motion seeking the appointment of counsel. Plaintiffs do 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 Plaintiffs 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 Plaintiffs are likely to
3 succeed on the merits. Plaintiffs filed the Complaint on January 25, 2013, less than a month ago,
4 and the Complaint awaits the Court's screening required under 28 U.S.C. 1915A. Thus, to date
5 the Court has not found any cognizable claims in Plaintiffs' Complaint for which to initiate service
6 of process, and no other parties have yet appeared. Moreover, based on a review of the record in
7 this case, the Court does not find that Plaintiffs cannot adequately articulate their claims.
8 Therefore, Plaintiffs' motion shall be denied without prejudice to renewal of the motion at a later
9 stage of the proceedings.

10 For the foregoing reasons, Plaintiffs' motion for the appointment of counsel is HEREBY
11 DENIED, without prejudice.

12 IT IS SO ORDERED.

13 **Dated: February 14, 2013**

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE