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

HORTENSE WHITE,
Plaintiff,

vs.

TRENONE VALARIE,
Defendants.

1:13-cv-00157-GSA (PC)

ORDER DENYING MOTION FOR
APPOINTMENT OF COUNSEL

(#19)

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On February 15, 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. At
2 this early stage of the proceedings, the court cannot determine that Plaintiff is likely to succeed
3 on the merits. This case was transferred to this court from the Eastern District of Pennsylvania
4 on January 31, 2013, and Plaintiff filed a petition for writ of habeas in this § 1983 action less
5 than a week ago on February 15, 2013. The case is presently awaiting review on the court's
6 screening list. Therefore, Plaintiff's motion shall be denied, without prejudice to renewal of the
7 motion at a later stage of the proceedings.

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

10
11 IT IS SO ORDERED.

12 **Dated: February 21, 2013**

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE