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8 UNITED STATES DISTRICT COURT  
9 EASTERN DISTRICT OF CALIFORNIA  
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11 ROBERTO HERRERA,  
12 Plaintiff,

13 v.

14 ROUCH,  
15 Defendant.  
16

CASE No. 1:13-cv-00289-LJO-MJS

ORDER DENYING MOTION FOR  
APPOINTMENT OF COUNSEL

(ECF No. 21)

17 Plaintiff Roberto Herrera is a state prisoner proceeding pro se and in forma  
18 pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. (ECF No. 1.) On  
19 September 20, 2013, Plaintiff filed a motion seeking the appointment of counsel.<sup>1</sup> (ECF  
20 No. 21.)

21 Plaintiff does not have a constitutional right to appointed counsel in this action,  
22 Rand v. Rowland, 113 F.3d 1520, 1525 (9th Cir. 1997) (partially overruled en banc on  
23 other grounds, 154 F.3d 952, 954 n. 1 (9th Cir. 1998)), and the Court cannot require an  
24 attorney to represent plaintiff pursuant to 28 U.S.C. § 1915(e)(1). Mallard v. United  
25 States District Court for the Southern District of Iowa, 490 U.S. 296, 298 (1989).

26 In certain exceptional circumstances the Court may request the voluntary  
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28 <sup>1</sup> Plaintiff concurrently filed a request for a preliminary injunction. That request is addressed in a separate order.

1 assistance of counsel pursuant to section 1915(e)(1). Rand, 113 F.3d at 1525.  
2 However, without a reasonable method of securing and compensating counsel, the  
3 Court will seek volunteer counsel only in the most serious and exceptional cases. In  
4 determining whether “exceptional circumstances exist, the district court must evaluate  
5 both the likelihood of success of the merits [and] the ability of the [plaintiff] to articulate  
6 his claims pro se in light of the complexity of the legal issues involved.” Id. (internal  
7 quotation marks and citations omitted).

8 In the present case, the Court does not find the required exceptional  
9 circumstances. Even if it is assumed that Plaintiff is not well versed in the law and that  
10 he has made serious allegations which, if proved, would entitle him to relief, his case is  
11 not exceptional. This Court is faced with similar cases almost daily. Further, at this early  
12 stage in the proceedings, the Court cannot make a determination that Plaintiff is likely to  
13 succeed on the merits, and based on a review of the record in this case, the Court does  
14 not find that Plaintiff cannot adequately articulate his claims. Id.

15 For the foregoing reasons, Plaintiff’s Motion for Appointment of Counsel is  
16 DENIED, without prejudice.

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19 IT IS SO ORDERED.

20 Dated: October 10, 2013

/s/ Michael J. Seng  
UNITED STATES MAGISTRATE JUDGE