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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ROBERTO HERRERA,
Plaintiff,
v.
ROUCH,
Defendant.

CASE No. 1:13-cv-00289-LJO-MJS
ORDER DENYING MOTION FOR
APPOINTMENT OF COUNSEL
(ECF No. 23)

Plaintiff Roberto Herrera is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. (ECF No. 1.) On October 10, 2013, Plaintiff filed a second motion seeking the appointment of counsel. (ECF No. 23.)

Plaintiff does not have a constitutional right to appointed counsel in this action, Rand v. Rowland, 113 F.3d 1520, 1525 (9th Cir. 1997) (partially overruled en banc on other grounds, 154 F.3d 952, 954 n. 1 (9th Cir. 1998)), 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 (1989).

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. However, without a reasonable method of securing and compensating counsel, the

1 Court will seek volunteer counsel only in the most serious and exceptional cases. In
2 determining whether “exceptional circumstances exist, the district court must evaluate
3 both the likelihood of success of the merits [and] the ability of the [plaintiff] to articulate
4 his claims pro se in light of the complexity of the legal issues involved.” Id. (internal
5 quotation marks and citations omitted).

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

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

15
16 IT IS SO ORDERED.

17 Dated: October 13, 2013

/s/ Michael J. Seng
UNITED STATES MAGISTRATE JUDGE

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