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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DURRELL PUCKETT,
Plaintiff,
v.
RONALD VOGEL, et al.,
Defendants.

1:13-cv-00525-AWI-SKO (PC)
ORDER DENYING MOTION FOR
APPOINTMENT OF COUNSEL
(Document# 46)

On February 17, 2015, 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. Even
2 if it is assumed that plaintiff is not well versed in the law and that he has made serious allegations
3 which, if proved, would entitle him to relief, his case is not exceptional. This court is faced with
4 similar cases almost daily. Further, at this early stage in the proceedings, the court cannot make a
5 determination that plaintiff is likely to succeed on the merits, and based on a review of the record
6 in this case, the court does not find that plaintiff cannot adequately articulate his claims. Id.
7 While the court recognizes that plaintiff is at a disadvantage due to his pro se status and his
8 incarceration, and that he has mental health issues, the test is not whether plaintiff would benefit
9 from the appointment of counsel. See Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th Cir.
10 1986) (“Most actions require development of further facts during litigation and a pro se litigant
11 will seldom be in a position to investigate easily the facts necessary to support the case.”) The
12 test is whether exceptional circumstances exist and here, at this juncture in the proceedings, they
13 do not.

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

16 IT IS SO ORDERED.

17 Dated: February 19, 2015

18 /s/ Sheila K. Oberto
19 UNITED STATES MAGISTRATE JUDGE