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4 **UNITED STATES DISTRICT COURT**

5 EASTERN DISTRICT OF CALIFORNIA

6 JAMISI J. CALLOWAY,

7 Plaintiff,

8 v.

9 DR. AKANNO, et al.,

10 Defendants.

Case No. 1:13-cv-00747-SAB-PC

ORDER DENYING PLAINTIFF’S SECOND
MOTION FOR APPOINTMENT OF
COUNSEL

(ECF NO. 30)

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12 Plaintiff Jamisi J. Calloway is a state prisoner appearing pro se and in forma pauperis in
13 this civil rights action pursuant to 42 U.S.C. § 1983.

14 On May 26, 2016, Plaintiff filed a motion for the appointment of counsel. (ECF No. 30.)
15 Plaintiff’s first request for the appointment of counsel was denied on May 23, 2013. (ECF No.5.)

16 Plaintiff is advised that there is no constitutional right to appointed counsel in this action,
17 Rand v. Rowland, 113 F.3d 1520, 1525 (9th Cir. 1997), and the Court cannot require any
18 attorney to represent Plaintiff pursuant to 28 U.S.C. § 1915(e)(1). Mallard v. United States
19 District Court for the Southern District of Iowa, 490 U.S. 296, 298 (1989). However, in certain
20 exceptional circumstances the court may request the voluntary assistance of counsel pursuant to
21 section 1915(e)(1). Rand, 113 F.3d at 1525.

22 Without a reasonable method of securing and compensating counsel, the Court will seek
23 volunteer counsel only in the most serious and exceptional cases. In determining whether
24 “exceptional circumstances exist, the district court must evaluate both the likelihood of success
25 on the merits [and] the ability of the [plaintiff] to articulate his claims pro se in light of the
26 complexity of the legal issues involved.” Id. (internal quotation marks and citations omitted).

27 In the present case, the Court has considered Plaintiff’s moving papers, but does not find
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1 the required exceptional circumstances. LaMere v. Risley, 827 F.2d 622, 626 (9th Cir. 1987);
2 Terrell v. Brewer, 935 F.2d 1015, 1017 (9th Cir. 1991). Plaintiff is proceeding on a claim of
3 deliberate indifference to serious medical needs. The legal issues present in this action are not
4 complex, and Plaintiff has thoroughly set forth his arguments in the third amended complaint
5 filed in this action. Plaintiff argues that he has tried to obtain counsel, and that it is difficult for
6 him to litigate this case while he is incarcerated. Plaintiff argues that it is difficult for him to
7 obtain information. In forma pauperis status alone does not alone entitle Plaintiff to appointed
8 counsel. That it is difficult for Plaintiff to obtain information does not constitute exceptional
9 circumstances.

10 While a pro se litigant may be better served with the assistance of counsel, so long as a
11 pro se litigant, such as Plaintiff in this instance, is able to “articulate his claims against the
12 relative complexity of the matter,” the “exceptional circumstances” which might require the
13 appointment of counsel do not exist. Rand, 113 F.3d at 1525 (finding no abuse of discretion
14 under 28 U.S.C. §1915(e) when district court denied appointment of counsel despite fact that pro
15 se prisoner “may well have fared better – particularly in the realm of discovery and the securing
16 of expert testimony.”) Accordingly, IT IS HEREBY ORDERED that Plaintiff’s motion for the
17 appointment of counsel is DENIED.

18 IT IS SO ORDERED.

19 Dated: May 27, 2016

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22 UNITED STATES MAGISTRATE JUDGE
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