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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 JON C. BOBIER,

12 Plaintiff,

13 v.
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15 UNKNOWN,

16 Defendant.
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1:13-cv-00845-AWI-MJS (PC)

ORDER DENYING MOTION FOR
APPOINTMENT OF COUNSEL,
DISCHARGING ORDER TO SHOW
CAUSE, AND GRANTING REQUEST FOR
AN EXTENSION OF TIME TO FILE AN
AMENDED COMPLAINT

(ECF Nos. 16, 17)

AMENDED COMPLAINT DUE WITHIN
THIRTY DAYS

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19 Plaintiff Jon C. Bobier, a state prisoner proceeding pro se and in forma pauperis,
20 filed this civil rights action pursuant to 42 U.S.C. § 1983 on October 3, 2012. (ECF No.
21 1.) Plaintiff has consented to Magistrate Judge jurisdiction. (ECF No. 13.)

22 On December 23, 2013, Plaintiff filed a motion seeking the appointment of
23 counsel and requesting that the Court extend his time to file an amended complaint.

24 **I. MOTION FOR APPOINTMENT OF COUNSEL**

25 Plaintiff does not have a constitutional right to appointed counsel in this action,
26 Rand v. Rowland, 113 F.3d 1520, 1525 (9th Cir. 1997), and the Court cannot require an
27 attorney to represent plaintiff pursuant to 28 U.S.C. § 1915(e)(1). Mallard v. United
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1 States District Court for the Southern District of Iowa, 490 U.S. 296, 298 (1989).

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

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

17 For the foregoing reasons, Plaintiff’s motion for appointment of counsel is
18 DENIED, without prejudice.

19 **II. REQUEST FOR EXTENSION OF TIME**

20 On October 29, 2013, the Court filed an order striking Plaintiff’s unsigned and
21 uncaptioned Complaint and directing Plaintiff to file an amended complaint within thirty
22 days. (ECF No. 15.) That deadline passed without Plaintiff filing an amended complaint
23 or requesting an extension of time to do so. The Court on December 13, 2013, ordered
24 Plaintiff to show cause as to why this action should not be dismissed for failure to comply
25 with a court order. (ECF No. 16.) Plaintiff has since requested an extension of time in
26 which to file an amended complaint. (ECF No. 17.)

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1 Accordingly, the order requiring Plaintiff to show cause, filed December 13, 2013,
2 is hereby DISCHARGED and Plaintiff is granted thirty (30) days from the date of service
3 of this order in which to file an amended complaint. If Plaintiff fails to file an amended
4 complaint, this action will be dismissed, without prejudice, for failure to obey a court
5 order and failure to prosecute.

6 IT IS SO ORDERED.
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8 Dated: January 3, 2014

/s/ Michael J. Seng
UNITED STATES MAGISTRATE JUDGE