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IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF CALIFORNIA

KEVIN M. LONG,

1:13-cv-01256-GSA (PC)

Plaintiff,

ORDER DENYING MOTION FOR  
APPOINTMENT OF COUNSEL

vs.

USA CALIFORNIA, et al,

( #6)

Defendants.

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On August 21, 2013, 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. At this  
2 early stage in the proceedings, the court cannot make a determination that plaintiff is likely to  
3 succeed on the merits. In a separate order, Plaintiff was granted leave to amend the complaint  
4 within thirty days. When the amended complaint is filed, the Court is required to screen it under  
5 28 U.S.C. 1915. Thus, to date there is no complaint for which the Court has found any cognizable  
6 claims for which to initiate service of process, and no other parties have yet appeared. Therefore,  
7 plaintiff's motion shall be denied without prejudice to renewal of the motion at a later stage of the  
8 proceedings.

9 For the foregoing reasons, plaintiff's motion for the appointment of counsel is HEREBY  
10 DENIED, without prejudice.

11 IT IS SO ORDERED.

12 **Dated: August 22, 2013**

**/s/ Gary S. Austin**  
UNITED STATES MAGISTRATE JUDGE