

1
2
3
4
5
6
7
8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
10

11 IRVIN VAN BUREN,

12 Plaintiff,

13 v.

14 J.D. WILLARD, et al,

15 Defendant.
16

1:13-cv-01273-DLB (PC)

ORDER DENYING MOTION FOR
APPOINTMENT OF COUNSEL

(Document# 23)

17 On September 19, 2014, Plaintiff filed a motion seeking the appointment of counsel.
18 Plaintiff does not have a constitutional right to appointed counsel in this action, Rand v. Rowland,
19 113 F.3d 1520, 1525 (9th Cir. 1997), and the court cannot require an attorney to represent
20 plaintiff pursuant to 28 U.S.C. § 1915(e)(1). Mallard v. United States District Court for the
21 Southern District of Iowa, 490 U.S. 296, 298, 109 S.Ct. 1814, 1816 (1989). However, in certain
22 exceptional circumstances, the court may request the voluntary assistance of counsel pursuant to
23 section 1915(e)(1). Rand, 113 F.3d at 1525.

24 Without a reasonable method of securing and compensating counsel, the court will seek
25 volunteer counsel only in the most serious and exceptional cases. In determining whether
26 “exceptional circumstances exist, the district court must evaluate both the likelihood of success of
27 the merits [and] the ability of the [plaintiff] to articulate his claims *pro se* in light of the
28 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 For the foregoing reasons, Plaintiff's motion for the appointment of counsel is HEREBY
8 DENIED, without prejudice.

9
10 IT IS SO ORDERED.

11 Dated: September 23, 2014

/s/ Dennis L. Beck
12 UNITED STATES MAGISTRATE JUDGE
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28