

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

11 TOMMY CURTIS ECKMAN,
12 Plaintiff,
13 v.
14 CHIEF MEDICAL DOCTOR, et al.,
15 Defendant.

1:13-cv-01515-DLB (PC)

ORDER DENYING MOTION FOR
APPOINTMENT OF COUNSEL

(Document# 31)

16 On December 18, 2015, Plaintiff filed a motion seeking the appointment of counsel.
17 Plaintiff does not have a constitutional right to appointed counsel in this action, Rand v. Rowland,
18 113 F.3d 1520, 1525 (9th Cir. 1997), and the Court cannot require an attorney to represent
19 Plaintiff pursuant to 28 U.S.C. § 1915(e)(1). Mallard v. United States District Court for the
20 Southern District of Iowa, 490 U.S. 296, 298, 109 S.Ct. 1814, 1816 (1989). However, in certain
21 exceptional circumstances, the Court may request the voluntary assistance of counsel pursuant to
22 section 1915(e)(1). Rand, 113 F.3d at 1525.

23 Without a reasonable method of securing and compensating counsel, the Court will seek
24 volunteer counsel only in the most serious and exceptional cases. In determining whether
25 “exceptional circumstances exist, the district court must evaluate both the likelihood of success of
26 the merits [and] the ability of the [plaintiff] to articulate his claims *pro se* in light of the
27 complexity of the legal issues involved.” Id. (internal quotation marks and citations omitted).
28

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
5 a determination that Plaintiff is likely to succeed on the merits, and based on a review of the
6 record in this case, the Court does not find that Plaintiff cannot adequately articulate his claims.
7 Id.

8 To the extent that Plaintiff cites a mental condition for which he takes medication, he must
9 present medical records to the Court if he seeks counsel on that basis. Plaintiff also indicates that
10 he has been transferred and the inmate who was helping him has all of his Court records. Given
11 the situation, Plaintiff may requests copies of certain documents from this Court.

12 For the foregoing reasons, Plaintiff's motion for the appointment of counsel is HEREBY
13 DENIED, without prejudice.

14 IT IS SO ORDERED.

15
16 Dated: December 21, 2015

/s/ Dennis L. Beck
UNITED STATES MAGISTRATE JUDGE