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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

GARY FRANCIS FISHER,
Plaintiff,
v.
DIRECTOR OF OPS OF CDCR,
Defendant(s).

1:14-cv-00901 BAM (PC)

ORDER DENYING MOTION FOR
APPOINTMENT OF COUNSEL

(ECF No. 30)

On August 15, 2014, 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 on 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. 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. Although Plaintiff cites to serious medical issues, including partial
5 paralysis and a traumatic brain injury, there is no indication in the record that Plaintiff is unable to
6 articulate his claims or his position in this action. To the extent Plaintiff requires additional time
7 to meet court deadlines due to his physical condition or due to his lack of access to legal
8 materials, he may request appropriate extensions of time from the court. Further, at this early
9 stage in the proceedings, the court cannot make a determination that Plaintiff is likely to succeed
10 on the merits. Id.

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

13 IT IS SO ORDERED.

14
15 Dated: October 7, 2014

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE