2 3 4 5 6 7 UNITED STATES DISTRICT COURT 8 9 EASTERN DISTRICT OF CALIFORNIA 10 11 JUAN JAIMES, Case No.: 1:14-cv-00952-LJO-SAB (PC) 12 Plaintiff, ORDER DENYING, WITHOUT PREJUDICE, PLAINTIFF'S THIRD MOTION FOR 13 v. APPOINTMENT OF COUNSEL 14 DR. ROBERT J. BARNES, et al., [ECF No. 109] 15 Defendants. 16 Plaintiff Juan Jaimes is appearing pro se and in forma pauperis in this civil rights action 17 pursuant to 42 U.S.C. § 1983. 18 Currently before the Court is Plaintiff's third motion for appointment of counsel, filed on 19 20 December 5, 2017. 21 As Plaintiff was previously advised, he 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 22 23 require any attorney to represent plaintiff pursuant to 28 U.S.C. § 1915(e)(1). Mallard v. United States 24 District Court for the Southern District of Iowa, 490 U.S. 296, 298 (1989). However, in certain exceptional circumstances the court may request the voluntary assistance of counsel pursuant to 25 26 section 1915(e)(1). Rand, 113 F.3d at 1525. 27 /// 28

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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).

Plaintiff is proceeding on a claim of deliberate indifference to his medical needs and the legal issues present in this action are not complex, and Plaintiff has thoroughly set forth his allegations in the complaint and filed several motions in the action. Plaintiff's has failed to demonstrate exceptional circumstances to warrant the appointment of voluntary counsel in this action. While a pro se litigant may be better served with the assistance of counsel, so long as a pro se litigant, such as Plaintiff in this instance, is able to "articulate his claims against the relative complexity of the matter," the "exceptional circumstances" which might require the appointment of counsel do not exist. Rand v. Rowland, 113 F.3d at 1525 (finding no abuse of discretion under 28 U.S.C. § 1915(e) when district court denied appointment of counsel despite fact that pro se prisoner "may well have fared better-particularly in the realm of discovery and the securing of expert testimony.") Circumstances common to most prisoners, such as lack of funds, legal education and limited law library access and other resources, do not establish exceptional circumstances that would warrant a request for voluntary assistance of counsel. Accordingly, Plaintiff's third motion for appointment of counsel is DENIED.

IT IS SO ORDERED.

Dated: **December 12, 2017**

UNITED STATES MAGISTRATE JUDGE