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8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**
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11 CHRISTOPHER CONDEE,

12 Plaintiff,

13 vs.

14 CASTILLO, *et al.*

15 Defendant.
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Case No. 1:14-cv-01072-DAD-EPG-PC

ORDER DENYING PLAINTIFF'S
MOTION FOR APPOINTMENT OF
COUNSEL

(ECF No. 20)

18 Plaintiff Christopher Condee is proceeding *pro se* and *in forma pauperis* in this action
19 alleging violations of 42 U.S.C. § 1983. On September 27, 2016, the Court issued Findings and
20 Recommendations recommending that Plaintiff's Second Amended Complaint be dismissed
21 with prejudice for failure to state a claim. (ECF No. 19.) On October 13, 2016, Plaintiff filed a
22 motion for the appointment of counsel. (ECF No. 20.)

23 Plaintiff does not have a constitutional right to appointed counsel in this action, *Rand v.*
24 *Rowland*, 113 F.3d 1520, 1525 (9th Cir. 1997), and the Court cannot require an attorney to
25 represent Plaintiff pursuant to 28 U.S.C. § 1915(e)(1). *Mallard v. United States District Court*
26 *for the Southern District of Iowa*, 490 U.S. 296, 298 (1989). However, in certain exceptional
27 circumstances the Court may request the voluntary assistance of counsel pursuant to section
28 1915(e)(1). *Rand*, 113 F.3d at 1525.

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

6 Plaintiff argues that exceptional circumstances exist because he has only a sixth grade
7 education and is opposed by “teams of highly skilled and seasoned state’s attorneys, whose
8 only job is to thwart prisoner law suits.” (ECF No. 20.) Plaintiff contends that, without counsel,
9 his claim will fail because he will not be able to obtain adequate evidence to prove his case.

10 Plaintiff’s case does not demonstrate the exceptional circumstances required for the
11 appointment of counsel. The Court cannot find that there is a likelihood that Plaintiff’s claim
12 will succeed on its merits because it has already found that the complaint fails to state a claim.
13 Nor is this finding a result of any inability on Plaintiff’s part to articulate his claims. The Court
14 was able to adequately evaluate the facts Plaintiff alleged in his complaints; the
15 recommendation that the complaint be dismissed was made because, even assuming those facts
16 to be true, the complaint does not state a legal cause of action.

17 Plaintiff’s motion for the appointment of counsel (ECF No. 20) is DENIED.

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19 IT IS SO ORDERED.

20 Dated: October 18, 2016

21 /s/ Eric P. Grogan
22 UNITED STATES MAGISTRATE JUDGE
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