

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

CHARLES W. WINDHAM,
Plaintiff,
v.
DAVE DAVIES, et al.,
Defendants.

) Case No.: 1:14-cv-01651-SAB (PC)
)
)
) ORDER DENYING PLAINTIFF'S
) REQUEST FOR APPOINTMENT OF
) COUNSEL
)
) [ECF No. 15]
)
)

Plaintiff is appearing pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983.

On March 25, 2015, Plaintiff submitted a declaration, under penalty of perjury, in which he claims he has been denied access to the law library to conduct legal research, his supplies have been withheld from him, and the Court has failed to take necessary action to provide Plaintiff with clear instructions on how to proceed with this action. Plaintiff therefore seeks 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 any 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 (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.

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 on the
4 merits [and] the ability of the [plaintiff] to articulate his claims pro se in light of the complexity of the
5 legal issues involved." Id. (internal quotation marks and citations omitted).

6 In the present case, the Court does not find the required exceptional circumstances. Plaintiff
7 has yet to state a cognizable claim as his complaint was dismissed with leave to amend for failure to
8 state a cognizable claim. Even if it is assumed that plaintiff is not well versed in the law and that he
9 has made serious allegations which, if proved, would entitle him to relief, his case is not exceptional.
10 The facts alleged appear straightforward and unlikely to involve extensive investigation and discovery.
11 At this early stage in the proceedings, the court cannot make a determination that Plaintiff is likely to
12 succeed on the merits, and based on a review of the record in this case, the Court does not find that
13 plaintiff cannot adequately articulate his claims. Id.

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

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17 IT IS SO ORDERED.

18 Dated: March 27, 2015



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UNITED STATES MAGISTRATE JUDGE