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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

ALAN FREIBAUM,  
Plaintiff,  
v.  
K. HOLLAND, et al.,  
Defendant.

1:14-cv-01832-BAM (PC)  
  
ORDER DENYING MOTION FOR  
APPOINTMENT OF COUNSEL  
  
(ECF No. 11)

On July 31, 2015, Plaintiff Alan Freibaum (“Plaintiff”) filed a motion seeking the appointment of counsel. In support of his motion, Plaintiff argues that (1) he is unable to afford counsel; (2) his imprisonment will limit his ability to litigate; (3) he has pled a cognizable claim; (4) counsel will better prepare his case for trial and try his case, including with regard to possible medical experts and cross-examination of witnesses; and (5) he has limited access to a law library and a limited knowledge of the law.

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.

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 on 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 In the present case, the court does not find the required exceptional circumstances. Even  
7 if it is assumed that Plaintiff is not well versed in the law and that he has made serious allegations  
8 which, if proved, would entitle him to relief, his case is not exceptional. This court is faced with  
9 similar cases brought by prisoners alleging deliberate indifference to serious medical needs  
10 almost daily. Further, at this early stage in the proceedings, the court cannot make a  
11 determination that Plaintiff is likely to succeed on the merits, and based on a review of the record  
12 in this case, the court does not find that Plaintiff cannot adequately articulate his claims. *Id.*

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

15 IT IS SO ORDERED.

16  
17 Dated: August 4, 2015

/s/ Barbara A. McAuliffe  
UNITED STATES MAGISTRATE JUDGE