

1 amend his case. Plaintiff also reportedly believes that former counsel will continue to get paid
2 while Plaintiff remains in prison. (ECF No. 31.)

3 Plaintiff does not have a constitutional right to appointed counsel in this action, Rand v.
4 Rowland, 113 F.3d 1520, 1525 (9th Cir. 1997), and the court cannot require an attorney to
5 represent plaintiff pursuant to 28 U.S.C. § 1915(e)(1). Mallard v. United States District Court for
6 the Southern District of Iowa, 490 U.S. 296, 298, 109 S.Ct. 1814, 1816 (1989). However, in
7 certain exceptional circumstances the court may request the voluntary assistance of counsel
8 pursuant to section 1915(e)(1). Rand, 113 F.3d at 1525.

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

14 Here, Plaintiff’s motion does not provide any basis warranting the appointment of counsel
15 or demonstrating the required exceptional circumstances. Even if it is assumed that Plaintiff is
16 not well versed in the law and that he has made serious allegations which, if proved, would entitle
17 him to relief, his case is not exceptional. Critically, at this stage of the proceedings, the Court
18 cannot make a determination that Plaintiff is likely to succeed on the merits.

19 Insofar as Plaintiff believes that his former counsel was receiving payment for her
20 services, he is mistaken. Plaintiff’s counsel was selected from the Court’s pro bono attorney
21 panel and she voluntarily agreed to the appointment. In other words, counsel was not paid for pro
22 bono services.

23 For the foregoing reasons, Plaintiff’s motion for the appointment of counsel is HEREBY
24 DENIED without prejudice.
25 IT IS SO ORDERED.

26 Dated: July 13, 2015

27 /s/ Barbara A. McAuliffe
28 UNITED STATES MAGISTRATE JUDGE