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4 **UNITED STATES DISTRICT COURT**

5 EASTERN DISTRICT OF CALIFORNIA

6 DAVID RYAN EHA,  
7 Plaintiff,

8 v.

9 STATE OF CALIFORNIA, et al.,  
10 Defendants.  
11

Case No. 1:15-cv-01112-BAM-PC

ORDER DENYING PLAINTIFF’S MOTION  
FOR APPOINTMENT OF COUNSEL

(ECF NO. 9)

12 Plaintiff Eha is a state prisoner appearing pro se and in forma pauperis in this civil rights  
13 action pursuant to 42 U.S.C. § 1983.

14 On October 28, 2015, Plaintiff filed a motion for the appointment of counsel. (ECF No.  
15 9.) Plaintiff has not previously sought the appointment of counsel.

16 Plaintiff is advised that there is no constitutional right to appointed counsel in this action,  
17 Rand v. Rowland, 113 F.3d 1520, 1525 (9th Cir. 1997), and the Court cannot require any  
18 attorney to represent Plaintiff pursuant to 28 U.S.C. § 1915(e)(1). Mallard v. United States  
19 District Court for the Southern District of Iowa, 490 U.S. 296, 298 (1989). However, in certain  
20 exceptional circumstances the court may request the voluntary assistance of counsel pursuant to  
21 section 195(e)(1). Rand, 113 F.3d at 1525.

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

27 In the present case, the Court has considered Plaintiff’s moving papers, but does not find  
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1 the required exceptional circumstances. LaMere v. Risley, 827 F.2d 622, 626 (9th Cir. 1987);  
2 Terrell v. Brewer, 935 F.2d 1015, 1017 (9th Cir. 1991). Plaintiff is proceeding on a claim of  
3 unconstitutional conditions of confinement. The issues in this case are not complex, and Plaintiff  
4 has thoroughly set forth his arguments in the complaint filed in this action. Plaintiff's sole  
5 argument is that he is indigent and cannot afford counsel. In forma pauperis status alone does  
6 not alone entitle Plaintiff to appointed counsel.

7         So long as a pro se litigant, such as Plaintiff in this instance, is able to “articulate his  
8 claims against the relative complexity of the matter,” the “exceptional circumstances” which  
9 might require the appointment of counsel do not exist. Rand, 113 F.3d at 1525 (finding no abuse  
10 of discretion under 28 U.S.C. §1915(e) when district court denied appointment of counsel despite  
11 fact that pro se prisoner “may well have fared better – particularly in the realm of discovery and  
12 the securing of expert testimony.”) Accordingly, IT IS HEREBY ORDERED that Plaintiff's  
13 motion for the appointment of counsel is DENIED.

14  
15 IT IS SO ORDERED.

16 Dated: October 30, 2015

/s/ Barbara A. McAuliffe  
UNITED STATES MAGISTRATE JUDGE