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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

DARRYL ROBINSON,  
Plaintiff,  
v.  
C. CORTEZ,  
Defendant.

Case No. 1:15-cv-01186-MJS (PC)

**ORDER DENYING MOTIONS FOR APPOINTMENT OF COUNSEL**

**ORDER DIRECTING CLERK TO RE-SEND PLAINTIFF'S SECOND AMENDED COMPLAINT WITH SUPPORTING DOCUMENTS**

**ORDER DIRECTING CLERK TO RE-SEND FORM USM-285**

**(ECF Nos. 13 & 14)**

**THIRTY-DAY DEADLINE**

On February 18, 2016, Plaintiff filed two consecutive motions requesting the appointment of counsel, requesting duplicate copies of his Second Amended Complaint, and requesting a new Form USM-285 (ECF Nos. 13 & 14).

**I. 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 an attorney to represent Plaintiff pursuant to 28 U.S.C. § 1915(e)(1), Mallard v. United

1 States Dist. Ct. for the S. Dist. of Iowa, 490 U.S. 296, 298 (1989). In certain exceptional  
2 circumstances the Court may request the voluntary assistance of counsel pursuant to  
3 section 1915(e)(1). Rand, 113 F.3d at 1525. However, without a reasonable method of  
4 securing and compensating counsel, the Court will seek volunteer counsel only in the  
5 most serious and exceptional cases. In determining whether exceptional circumstances  
6 exist, the District Court must evaluate both the likelihood of success of the merits and the  
7 ability of the plaintiff to articulate his claims *pro se* in light of the complexity of the legal  
8 issues involved. Id. (citations omitted).

10 In the present case, the Court does not find the required exceptional  
11 circumstances. At this stage in the proceedings, the Court cannot make a determination  
12 that Plaintiff is likely to succeed on the merits, and based on a review of the record in this  
13 case, the Court does not find that Plaintiff cannot adequately articulate his claims.  
14 Plaintiff claims that he is an “ADA” inmate, presumably meaning an inmate subject to the  
15 Americans with Disabilities Act. However, Plaintiff does not support his claim, nor does  
16 he detail how his particular disabilities affect his ability to litigate this case. Plaintiff  
17 presently faces no pending deadlines in this case, and he may request an extension of  
18 time if he has trouble meeting deadlines in the future.

21 Plaintiff’s present motions for appointment of counsel will be DENIED without  
22 prejudice. If the Plaintiff can show good cause why he needs a lawyer appointed, the  
23 Court may reconsider his motion.

25 **II. PLAINTIFF’S SECOND AMENDED COMPLAINT**

26 Plaintiff requests the Court send him a new copy of his Second Amended  
27 Complaint with supporting documentation (ECF No. 11.), as the copy he received was of  
28

1 poor quality, cut off in some sections, and only copied on one-side.

2 Plaintiff's request will be GRANTED and the Clerk's Office will be directed to re-  
3 send Plaintiff a copy of his Second Amended Complaint with supporting documentation,  
4 taking care to make sure all pages are included in their entirety and any double-sided  
5 pages are copied on both sides.  
6

7  
8 **III. USM SERVICE DOCUMENTS**

9 Plaintiff also requests the Court send him a new Form USM-285, as he made  
10 a mistake on the form the Court originally sent him. Plaintiff's request will be GRANTED  
11 and the Clerk's Office will be directed to re-send Plaintiff Form USM-285.  
12

13 Accordingly, it is HEREBY ORDERED that:

- 14 1. Plaintiff's request for appointment of counsel (ECF No. 13 & 14.) is  
15 DENIED without prejudice;
- 16 2. Plaintiff's request for a new copy of his Second Amended Complaint (ECF  
17 No. 13 & 14) is GRANTED;
- 18 3. Plaintiff's request for a new Form USM-285 (ECF No. 13 & 14.) is  
19 GRANTED;
- 20 4. The Clerk's Office shall send Plaintiff (a) a new copy of his Second  
21 Amended Complaint and Supporting Documentation, and (b) a new Form  
22 USM-285; and
- 23 5. Within thirty (30) days from the date of this order, Plaintiff shall  
24 submit the completed Notice of Submission of Documents to the Court with  
25 the following documents:  
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- a. One (1) completed summons;
- b. One (1) completed USM-285 form for Defendant Cortez; and
- c. Two (2) copies of the Second Amended Complaint filed  
December 14, 2015.

IT IS SO ORDERED.

Dated: March 29, 2016

*/s/ Michael J. Seng*  
UNITED STATES MAGISTRATE JUDGE