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8	UNITED STAT	TES DISTRICT COURT
9	EASTERN DISTRICT OF CALIFORNIA	
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11	DAVID ESTRADA,) Case No.: 1:15-cv-01292-AWI-SAB (PC)
12	Plaintiff,)) ORDER DENYING WITHOUT PREJUDICE
13	v.	 ORDER DENYING, WITHOUT PREJUDICE, PLAINTIFF'S SECOND MOTION FOR APPOINTMENT OF COUNSEL
14	TERESA MACIS, et al.,)) [ECF No. 45]
15	Defendants.)
16)
17	Plaintiff David Estrada is appearing pro se in this civil rights action pursuant to 42 U.S.C. §	
18	1983.	
19	On July 11, 2016, Plaintiff filed a second motion for the appointment of counsel. There is no	
20	constitutional right to appointed counsel in this action, <u>Rand v. Rowland</u> , 113 F.3d 1520, 1525 (9th	
21	Cir. 1997), and the court cannot require any attorney to represent plaintiff pursuant to 28 U.S.C. §	
22	1915(e)(1). Mallard v. United States District Court for the Southern District of Iowa, 490 U.S. 296,	
23	298 (1989). However, in certain exceptional circumstances the court may request the voluntary	
24	assistance of counsel pursuant to section 1915(e)(1). Rand, 113 F.3d at 1525.	
25	Without a reasonable method of securing and compensating counsel, the court will seek	
26	volunteer counsel only in the most serious and exceptional cases. In determining whether	
27	"exceptional circumstances exist, the district court must evaluate both the likelihood of success on the	
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2 legal issues involved." <u>Id.</u> (internal quotation marks and citations omitted).
3 In the present case, the Court does find that neither the interests of justice nor exceptional
4 circumstances warrant appointment of counsel at this time. <u>LaMere v. Risley</u>, 827 F.2d 622, 626 (9th
5 Cir. 1987); Terrell v. Brewer, 935 F.2d 1015, 1017 (9th Cir. 1991). Plaintiff is proceeding on a claim

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Cir. 1987); <u>Terrell v. Brewer</u>, 935 F.2d 1015, 1017 (9th Cir. 1991). Plaintiff is proceeding on a claim of deliberate indifference to a serious medical need and the legal issues present in this action are not complex, and Plaintiff has thoroughly set forth his allegations in the complaint.

merits [and] the ability of the [plaintiff] to articulate his claims pro se in light of the complexity of the

8 While a pro se litigant may be better served with the assistance of counsel, so long as a pro se litigant, such as Plaintiff in this instance, is able to "articulate his claims against the relative 9 complexity of the matter," the "exceptional circumstances" which might require the appointment of 10 counsel do not exist. Rand v. Rowland, 113 F.3d at 1525 (finding no abuse of discretion under 28 11 12 U.S.C. § 1915(e) when district court denied appointment of counsel despite fact that pro se prisoner "may well have fared better-particularly in the realm of discovery and the securing of expert 13 testimony.") Based on the record in this case, Plaintiff is able to articulate his claims and litigate this 14 action. Circumstances common to most prisoners, such as lack of financial resources, lack of legal 15 16 education and limited law library access, do not establish exceptional circumstances that would warrant a request for voluntary assistance of counsel. Accordingly, Plaintiff's second motion for 17 appointment of counsel is DENIED, without prejudice. 18

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IT IS SO ORDERED.

Dated: August 1, 2016

A.F.

UNITED STATES MAGISTRATE JUDGE