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5 **UNITED STATES DISTRICT COURT**  
6 **EASTERN DISTRICT OF CALIFORNIA**  
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8 DAVID ESTRADA, ) Case No.: 1:15-cv-01292-AWI-SAB (PC)  
9 Plaintiff, )  
10 v. ) ORDER DENYING, WITHOUT PREJUDICE,  
11 TERESA MACIS, et al., ) PLAINTIFF’S FOURTH MOTION FOR  
12 Defendants. ) APPOINTMENT OF COUNSEL  
13 ) [ECF No. 94]  
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Plaintiff David Estrada is appearing pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983.

Currently before the Court is Plaintiff’s fourth motion for appointment of counsel, filed May 25, 2017.

As Plaintiff was previously advised, there is no constitutional right to appointed counsel in this action, Rand v. Rowland, 113 F.3d 1520, 1525 (9th Cir. 1997), and the court cannot require any 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 (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.

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

1 In the present case, the Court does find that neither the interests of justice nor exceptional  
2 circumstances warrant appointment of counsel at this time. LaMere v. Risley, 827 F.2d 622, 626 (9th  
3 Cir. 1987); Terrell v. Brewer, 935 F.2d 1015, 1017 (9th Cir. 1991). Plaintiff is proceeding on a claim  
4 of deliberate indifference to a serious medical need and the legal issues present in this action are not  
5 complex, and Plaintiff has thoroughly set forth his allegations in the complaint.

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

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20 IT IS SO ORDERED.

21 Dated: May 30, 2017

  
UNITED STATES MAGISTRATE JUDGE