

1
2
3
4 **UNITED STATES DISTRICT COURT**

5 EASTERN DISTRICT OF CALIFORNIA

6 ANTHONY M. MORGAN,

7 Plaintiff,

8 v.

9 M. MAYS, et al.,

10 Defendants.

Case No. 1:16-cv-00149-BAM-PC

ORDER DENYING PLAINTIFF’S MOTION
FOR APPOINTMENT OF COUNSEL

(ECF NO. 7)

11
12 Plaintiff Anthony Morgan is a state prisoner proceeding pro se and in forma pauperis in
13 this civil rights action pursuant to 42 U.S.C. § 1983. On March 24, 2016, Plaintiff filed a motion
14 for the appointment of counsel. (ECF No. 7.)

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

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

26 In the present case, the Court has considered Plaintiff’s moving papers, but does not find
27 the required exceptional circumstances. LaMere v. Risley, 827 F.2d 622, 626 (9th Cir. 1987);
28

1 Terrell v. Brewer, 935 F.2d 1015, 1017 (9th Cir. 1991). Plaintiff is proceeding on a claim of
2 deliberate indifference to his serious medical needs. The legal issues present in this action are
3 not complex, and Plaintiff has thoroughly set forth his allegations in the complaint filed in this
4 action. Plaintiff makes no argument, but simply seeks the appointment of counsel. In forma
5 pauperis status alone does not alone entitle Plaintiff to appointed counsel.

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

14
15 IT IS SO ORDERED.

16 Dated: March 30, 2016

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE