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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ANDRE LEIVA,

 Plaintiff,

 v.

W. JACKSON,

 Defendant.

Case No. 1:16-cv-00167-AWI-EPG (PC)

ORDER DENYING PLAINTIFF’S MOTION
FOR APPOINTMENT OF PRO BONO
COUNSEL

(ECF NO. 25)

Andre Leiva (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action filed pursuant to 42 U.S.C. § 1983. On October 25, 2017, Plaintiff filed a motion for appointment of pro bono counsel. (ECF No. 25).

Plaintiff asks for appointment of counsel because his case has “has now reached level’s [sic] far behind [his] knowledge[.]” and because Defendant has 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have a constitutional right to appointed counsel in this action, Rand v. Rowland, 113 F.3d 1520, 1525 (9th Cir. 1997), withdrawn in part on other grounds, 154 F.3d 952 (9th Cir. 1998), and the Court cannot require an attorney to represent Plaintiff pursuant to 28 U.S.C. § 1915(e)(1).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, 109 S.Ct. 1814, 1816 (1989). However, in certain exceptional circumstances

1 the Court may request the voluntary assistance of counsel pursuant to section 1915(e)(1). Rand,
2 113 F.3d at 1525.

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

8 The Court will not order appointment of pro bono counsel at this time. The Court has
9 reviewed the record in this case, and at this time the Court cannot make a determination that Plaintiff
10 is likely to succeed on the merits of his claims. Moreover, while there have been some issues, based
11 on the complaints Plaintiff has filed it appears that Plaintiff can adequately articulate his claim.

12 Plaintiff is advised that he is not precluded from renewing his motion for appointment of pro
13 bono counsel at a later stage of the proceedings.

14 For the foregoing reasons, IT IS ORDERED that Plaintiff’s motion for appointment of pro
15 bono counsel is DENIED without prejudice.

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17 IT IS SO ORDERED.

18 Dated: October 30, 2017

/s/ Eric P. Gray
UNITED STATES MAGISTRATE JUDGE

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