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6 UNITED STATES DISTRICT COURT
7 FOR THE EASTERN DISTRICT OF CALIFORNIA
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9 JAMES JAMIL GARRETT,

10 Plaintiff,

11 v.

12 DR. NGOZI IGBINOSA,

13 Defendant.
14

Case No. 1:16-cv-00259-JLO-JDP

ORDER DENYING MOTIONS FOR
APPOINTMENT OF COUNSEL

ECF Nos. 55, 66

15 This matter is before the court on plaintiff's second and third motions seeking the
16 appointment of counsel. ECF Nos. 55, 66. Plaintiff James Jamil Garrett is proceeding without
17 counsel in this civil rights action brought under 42 U.S.C. § 1983. He states that appointment
18 of counsel is necessary because the case is complex and he lacks the mental capacity to
19 prosecute the case effectively. Plaintiff's first motion seeking the appointment of counsel
20 made similar allegations, ECF No. 42, and was denied, ECF No. 43.

21 Plaintiff does not have a constitutional right to appointed counsel in this action, *see Rand*
22 *v. Rowland*, 113 F.3d 1520, 1525 (9th Cir. 1997), *withdrawn in part on other grounds on reh'g*
23 *en banc*, 154 F.3d 952 (9th Cir. 1998), and the court lacks the authority to require an attorney
24 to represent plaintiff, *see Mallard v. U.S. District Court for the Southern District of Iowa*, 490
25 U.S. 296, 298 (1989). The court may request the voluntary assistance of counsel. *See* 28
26 U.S.C. § 1915(e)(1) ("The court may request an attorney to represent any person unable to
27 afford counsel"); *Rand*, 113 F.3d at 1525. However, without a means to compensate counsel,
28 the court will seek volunteer counsel only in exceptional circumstances. In determining

1 whether such circumstances exist, “the district court must evaluate both the likelihood of
2 success on the merits [and] the ability of the [plaintiff] to articulate his claims pro se in light of
3 the complexity of the legal issues involved.” *Rand*, 113 F.3d at 1525 (internal quotation marks
4 and citations omitted).

5 Exceptional circumstances requiring the recruitment of counsel are not present here. The
6 court is currently reviewing defendant’s motion for summary judgment, which has been fully
7 briefed by the parties. It is not apparent that plaintiff is unable to articulate his claims
8 adequately, even though the issues are somewhat complex. Further, plaintiff has not
9 demonstrated that he is likely to succeed on the merits.

10 The court may later revisit this issue if the interests of justice so require. If plaintiff later
11 renews his request for counsel, he should provide a detailed explanation of the circumstances
12 that he believes justify appointment of counsel

13 Accordingly, plaintiff’s motions for the appointment of counsel, ECF Nos. 55, 66, are
14 denied without prejudice.

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16 IT IS SO ORDERED.

17 Dated: January 31, 2019

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19 UNITED STATES MAGISTRATE JUDGE

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21 No. 204
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