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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

SIMON THORNTON,

 Plaintiff,

 v.

D. GRISSOM, et al.,

 Defendants.

CASE No. 1:16-cv-00498-AWI-MJS (PC)

**ORDER DENYING MOTION FOR
APPOINTMENT OF COUNSEL**

(ECF No. 60)

Plaintiff is a state prisoner proceeding pro se and in forma pauperis in this civil rights action brought pursuant to 42 U.S.C. § 1983.

Before the Court is Plaintiff's **sixth** motion (ECF No. 60) for appointment of counsel. (See ECF Nos. 8, 14, 17, 21, 32.)

As Plaintiff has previously been informed, he does not have a constitutional right to appointed counsel in this action, Rand v. Rowland, 113 F.3d 1520, 1525 (9th Cir. 1997), 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 (1989). 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.

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

7 In the present case, the Court again finds no exceptional circumstances. Even if it
8 is assumed, as Plaintiff again claims, that he is not well versed in the law and that he has
9 made serious allegations which, if proved, would entitle him to relief, his case is not
10 exceptional. This Court is faced with similar cases almost daily. Further, the Court
11 cannot make a determination that Plaintiff is likely to succeed on the merits. And, based
12 on a review of the record in this case, even though the issues are complex, the court
13 does not find that Plaintiff cannot adequately articulate his claims. Id.

14 In this motion Plaintiff again asserts mental incompetence and supports his
15 motion with recent medical records. However, the records do not indicate that Plaintiff
16 lacks the writing ability and mental cognition to explain his claims. They indicate that
17 Plaintiff has been “doing well for the last two years” (ECF No. 60 at 4), that his thoughts
18 are “logical, linear” and “clear” (Id. at 6), and that he has been responding positively to
19 medication. (Id. at 9.) Although Plaintiff has suffered from mental health challenges, it
20 appears they are reasonably controlled with medication and treatment. Moreover, he has
21 demonstrated sufficient writing ability and legal knowledge to articulate his claims. See
22 Agyeman v. Corrections Corp. of America, 390 F.3d 1101, 1103 (9th Cir. 2004).

23 Accordingly Plaintiff’s motion is HEREBY DENIED.

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25 IT IS SO ORDERED.

26 Dated: February 6, 2018

27 /s/ Michael J. Seng
28 UNITED STATES MAGISTRATE JUDGE

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