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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ANDRE UNDERWOOD,

 Plaintiff,

 v.

R. COX, et al.,

 Defendants.

1:16-cv-00597-EPG (PC)

ORDER DENYING PLAINTIFF’S MOTION
FOR APPOINTMENT OF PRO BONO
COUNSEL
(ECF NO. 11)

Andre Underwood (“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 February 13, 2017, Plaintiff filed a request for appointment of pro bono counsel. (ECF No. 11).

According to Plaintiff, he needs counsel appointed because he cannot afford counsel, he has very limited access to the law library, the prison he is located at is on lock down status and his movement is very limited, the case is complex, and having counsel will “better enable” Plaintiff to present evidence and cross-examine witnesses at trial.

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have a constitutional right to appointed counsel in this action, Rand v. Rowland, 113 F.3d 1520, 1525 (9th Cir. 1997), withdrawn in part on other grounds, 154 F.3d 952 (9th Cir. 1998), and the Court cannot require an attorney to represent Plaintiff pursuant to 28

1 U.S.C. § 1915(e)(1). Mallard v. United States District Court for the Southern District of Iowa,
2 490 U.S. 296, 298, 109 S.Ct. 1814, 1816 (1989). However, in certain exceptional circumstances
3 the Court may request the voluntary assistance of counsel pursuant to section 1915(e)(1). Rand,
4 113 F.3d at 1525.

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

10 The Court will not order appointment of pro bono counsel at this time. At this early stage in
11 the proceedings, the Court cannot make a determination that Plaintiff is likely to succeed on the
12 merits. No defendants have been served. Additionally, while the Court has screened Plaintiff’s First
13 Amended Complaint and found a cognizable claim (ECF No. 10), Plaintiff has not yet informed the
14 Court whether he wishes to proceed only on the cognizable claim or if he will be filing a Second
15 Amended Complaint.

16 Moreover, based on the record in this case, it appears that Plaintiff can adequately articulate
17 his claims and respond to court orders. Plaintiff is advised that he is not precluded from renewing the
18 motion for appointment of pro bono counsel at a later stage of the proceedings.

19 For the foregoing reasons, Plaintiff’s motion for appointment of pro bono counsel is DENIED
20 without prejudice.

21 IT IS SO ORDERED.

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23 Dated: February 14, 2017

24 /s/ Eric P. Gray
25 UNITED STATES MAGISTRATE JUDGE
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