1 2 3 4 5 6 7 UNITED STATES DISTRICT COURT 8 EASTERN DISTRICT OF CALIFORNIA 9 10 11 RANDY STOOPS, Case No.: 1:16-cv-01026-SAB (PC) 12 Plaintiff, ORDER DENYING, WITHOUT PREJUDICE, PLAINTIFF'S MOTION FOR APPOINTMENT 13 v. **OF COUNSEL** 14 STUART SHERMAN, et al., [ECF No. 3] 15 Defendants. 16 Plaintiff Randy Stoops is appearing pro se and in forma pauperis in this civil rights action 17 18 pursuant to 42 U.S.C. § 1983. 19 On July 15, 2016, Plaintiff filed a motion for the appointment of counsel. Plaintiff does not 20 have a constitutional right to appointed counsel in this action, Rand v. Rowland, 113 F.3d 1520, 1525 21 (9th Cir. 1997), and the Court cannot require an attorney to represent Plaintiff pursuant to 28 U.S.C. § 22 1915(e)(1). Mallard v. United States District Court for the Southern District of Iowa, 490 U.S. 296, 23 298 (1989). However, in certain exceptional circumstances the Court may request the voluntary 24 assistance of counsel pursuant to section 1915(e)(1). Rand, 113 F.3d at 1525. Without a reasonable method of securing and compensating counsel, the Court will seek 25 26 volunteer counsel only in the most serious and exceptional cases. In determining whether "exceptional 27 circumstances exist, the district court must evaluate both the likelihood of success of the merits [and]

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the ability of the [plaintiff] to articulate his claims *pro se* in light of the complexity of the legal issues involved." Id. (internal quotation marks and citations omitted).

In the present case, the Court does not find the required exceptional circumstances. Even if it is assumed that Plaintiff is not well versed in the law and that he has made serious allegations which, if proved, would entitle him to relief, his case is not exceptional. This Court is faced with similar cases almost daily. Further, at this early stage in the proceedings, the Court cannot make a determination that Plaintiff is likely to succeed on the merits, and based on a review of the record in this case, the Court does not find that Plaintiff cannot adequately articulate his claims. <u>Id</u>.

For the foregoing reasons, Plaintiff's motion for the appointment of counsel is HEREBY DENIED, without prejudice.

IT IS SO ORDERED.

Dated: **July 18, 2016**

UNITED STATES MAGISTRATE JUDGE