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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MARVELLOUS AFRIKAN WARRIOR,

Plaintiff,

vs.

JESSICA SANTIAGO, et al.,

Defendants.

1:16-cv-01504-GSA-PC

ORDER DENYING MOTION FOR
APPOINTMENT OF COUNSEL,
WITHOUT PREJUDICE

On October 6, 2016, Plaintiff filed the Complaint commencing this action and requested the appointment of counsel. (ECF No. 1 at 5 ¶A.) Plaintiff 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). However, 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.

Without a reasonable method of securing and compensating counsel, the court will seek volunteer counsel only in the most serious and exceptional cases. In determining whether “exceptional circumstances exist, the district court must evaluate both the likelihood of success of the merits [and] 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).

1 In the present case, the court does not find the required exceptional circumstances.
2 Plaintiff's case stems from allegations that defendants violated his due process rights when they
3 conspired to harass and steal from him, out of retaliation. Plaintiff requests monetary damages
4 and declaratory and injunctive relief. At this early stage of the proceedings, the court cannot
5 make a determination that Plaintiff is likely to succeed on the merits. Moreover, based on
6 Plaintiff's complaint, it appears that he is able to adequately articulate his claims. Id. Even if it
7 is assumed that Plaintiff is not well versed in the law and that he has made serious allegations
8 which, if proved, would entitle him to relief, his case does not appear exceptional. Therefore,
9 Plaintiff's motion shall be denied, without prejudice to renewal of the motion at a later stage of
10 the proceedings.

11 Accordingly, for the foregoing reasons, Plaintiff's motion for the appointment of
12 counsel is **HEREBY DENIED**, without prejudice.

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14 **IT IS SO ORDERED.**

15 Dated: **May 11, 2017**

/s/ Gary S. Austin
16 UNITED STATES MAGISTRATE JUDGE
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