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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

| | | |
|-------------------------|---|------------------------------------|
| DEMAREALE TURNER, |) | Case No.: 1:16-cv-01643-SAB (PC) |
| |) | |
| Plaintiff, |) | |
| |) | ORDER DENYING, WITHOUT PREJUDICE, |
| v. |) | PLAINTIFF’S MOTION FOR APPOINTMENT |
| |) | OF COUNSEL |
| ADMINISTRATIVE SECURITY |) | |
| PERSONELL, et al., |) | [ECF No. 3] |
| |) | |
| Defendants. |) | |
| |) | |
| |) | |
| |) | |

Plaintiff Edwin Garcia is appearing pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983.

Currently before the Court is Plaintiff’s motion for appointment of counsel, filed October 31, 2016. Plaintiff seeks the appointment of counsel because he is a participant in the mental health program and needs assistance in litigating this action.

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 any 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.

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

6 The test for exceptional circumstances requires the Court to evaluate the Plaintiff’s likelihood
7 of success on the merits and the ability of the Plaintiff to articulate his claims pro se in light of the
8 complexity of the legal issues involved. See *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir.
9 1986); *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983). Circumstances common to most
10 prisoners, such as lack of legal education and limited law library access, do not establish exceptional
11 circumstances that would warrant a request for voluntary assistance of counsel. Furthermore,
12 participation in the mental health program, alone, does not present exceptional circumstances. In the
13 present case, the Court has yet to screen Plaintiff’s complaint and based on a cursory review of the
14 complaint, the Court does not find the required exceptional circumstances. Accordingly, Plaintiff’s
15 motion for appointment of counsel will be DENIED without prejudice.

16
17 IT IS SO ORDERED.

18 Dated: November 4, 2016


UNITED STATES MAGISTRATE JUDGE