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8	UNITED STATES DISTRICT COURT	
9	EASTERN DISTRICT OF CALIFORNIA	
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11	RICARDO MARTINEZ,	1:16-cv-01658-JLT (PC)
12	Plaintiff,	ORDER DENYING MOTION FOR APPOINTMENT OF COUNSEL
13	v.	
14	D. DAVEY, et al.,	(Doc. 78)
15	Defendant.	
16		
17	Plaintiff has filed numerous motions seeking the appointment of counsel, (see Docs. 18,	
18	30 37, 49), which this Court denied. (See Docs. 19, 31, 38, 50). On June 24, 2019, this Court	
19	appointed Chijioke O. Ikonte for the limited purpose of investigating the claim and drafting and	
20	filing a fifth amended complaint. (Doc. 51.) On December 6, 2019, Mr. Ikonte filed a Notice of	
21	Futility of Filing a Fifth Amended Complaint, which states that he and Plaintiff agreed a fifth	
22	amendment complaint is unnecessary. Id.	
23	Plaintiff has filed another motion for appointment of counsel. (Doc. 78.) He again	
24	describes the case as "complex" and states: "Trial in this case will likely involv[e] conflicting	
25	testimony, and counsel would better enable Plaintiff to present evidence and cross examine	
26	witnesses." Id.	
27	As this Court has stated repeatedly, Plaintiff does not have a constitutional right to	
28	appointed counsel in this action, Rand v. Rowland, 113 F.3d 1520, 1525 (9th Cir. 1997), and the	
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1	Court cannot require an attorney to represent Plaintiff pursuant to 28 U.S.C. § 1915(e)(1).	
2	Mallard v. U.S. Dist. Ct. for the S. Dist. of Iowa, 490 U.S. 296, 298 (1989). The Court may	
3	request the voluntary assistance of counsel under section 1915(e)(1). Rand, 113 F.3d at 1525.	
4	However, without a reasonable method of securing and compensating counsel, the Court will seek	
5	volunteer counsel only in the most serious and exceptional cases. In determining whether	
6	exceptional circumstances exist, the district court must evaluate both the likelihood of success of	
7	the merits and the ability of the plaintiff to articulate his claims pro se in light of the complexity	
8	of the legal issues involved. Id.	
9	The Court again does not find the required exceptional circumstances. Even assuming that	
10	Plaintiff is not well-versed in the law and that he has made serious allegations, which, if proved,	
11	would entitle him to relief, his case is not exceptional. This Court is faced with similar cases	
12	almost daily. At this stage in the proceedings, the Court cannot determine that Plaintiff is likely to	
13	succeed on the merits; the Court shall review of Plaintiff's Fourth Amended Complaint in due	
14	course. Moreover, based on a review of the record, the Court finds that Plaintiff remains able to	
15	articulate his claims adequately and advance this litigation.	
16	For the foregoing reasons, the Court shall not entertain any further motions for	
17	appointment of counsel absent an exceptional change of circumstances. Accordingly, this Court	
18	DENIES WITHOUT PREJUDICE Plaintiff's motion for the appointment of counsel. (Doc.	
19	78.)	
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21	IT IS SO ORDERED.	
22	Dated: May 3, 2021 /s/ Jennifer L. Thurston CHIEF UNITED STATES MAGISTRATE JUDGE	
23	CHIEF UNITED STATES MADISTRATE JUDGE	
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