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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

RICARDO MARTINEZ,

 Plaintiff,

 v.

D. DAVEY, et al.,

 Defendants.

Case No.: 1:16-cv-01658-JLT (PC)

**ORDER DENYING PLAINTIFF’S
MOTION FOR APPOINTMENT OF
COUNSEL**

(Doc. 94)

On July 29, 2021, Plaintiff filed a motion seeking the appointment of counsel. (Doc. 94.) The Court previously appointed a *pro bono* attorney for the limited purpose of drafting and filing a fifth amended complaint. (*See* Doc. 51.) However, under the present posture of the case, the Court does not find appointment of counsel appropriate.

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 under 28 U.S.C. § 1915(e)(1). *Mallard v. U.S. Dist. Ct. for the S. Dist. of Iowa*, 490 U.S. 296, 298 (1989). The Court may request the voluntary assistance of counsel under 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

1 claims *pro se* in light of the complexity of the legal issues involved. *Id.*

2 The Court does not find the required exceptional circumstances exist in this case. Plaintiff,
3 acting *pro se*, has already filed a response to Defendants' motion for summary judgment, which is
4 currently being considered. Accordingly, the Court **DENIES WITHOUT PREJUDICE**
5 Plaintiff's motion for appointment of counsel. (Doc. 94.)

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7 IT IS SO ORDERED.

8 Dated: August 2, 2021

/s/ Jennifer L. Thurston
CHIEF UNITED STATES MAGISTRATE JUDGE

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