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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JONATHAN L. DELL,
Plaintiff,
v.
R. ESPINOZA, et al.,
Defendant.

1:16-cv-01769 DAD-MJS (PC)
ORDER DENYING MOTION FOR
APPOINTMENT OF COUNSEL
(ECF No. 33)

Plaintiff has filed a motion seeking the appointment of counsel on the grounds that he is indigent, his imprisonment will affect his ability to litigate this case, and an attorney would better enable to present evidence and cross-examine witnesses during a trial.

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, 109 S.Ct. 1814, 1816 (1989). 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. However, 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

1 both the likelihood of success of the merits [and] the ability of the [plaintiff] to articulate
2 his claims *pro se* in light of the complexity of the legal issues involved.” *Id.* (internal
3 quotation marks and citations omitted).

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

11 For the foregoing reasons, Plaintiff’s motion for the appointment of counsel (ECF
12 No. 33) is HEREBY DENIED without prejudice.

13 IT IS SO ORDERED.

14
15 Dated: December 4, 2017

/s/ Michael J. Seng
16 UNITED STATES MAGISTRATE JUDGE