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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 TED BLACKMON,

12 Plaintiff,

13 v.

14 SGT. J. BENAVIDES, et al.,

15 Defendants.
16

1:16-cv-01773-GSA-PC

ORDER DENYING MOTION FOR
APPOINTMENT OF COUNSEL

(Document# 9)

17 On January 12, 2017, Plaintiff filed a motion seeking the appointment of counsel.
18 Plaintiff does not have a constitutional right to appointed counsel in this action, Rand v. Rowland,
19 113 F.3d 1520, 1525 (9th Cir. 1997), and the court cannot require an attorney to represent
20 plaintiff pursuant to 28 U.S.C. § 1915(e)(1). Mallard v. United States District Court for the
21 Southern District of Iowa, 490 U.S. 296, 298, 109 S.Ct. 1814, 1816 (1989). However, in certain
22 exceptional circumstances the court may request the voluntary assistance of counsel pursuant to
23 section 1915(e)(1). Rand, 113 F.3d at 1525.

24 Without a reasonable method of securing and compensating counsel, the court will seek
25 volunteer counsel only in the most serious and exceptional cases. In determining whether
26 “exceptional circumstances exist, the district court must evaluate both the likelihood of success of
27 the merits [and] the ability of the [plaintiff] to articulate his claims *pro se* in light of the
28 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. At this
2 early stage in the proceedings, the court cannot make a determination that Plaintiff is likely to
3 succeed on the merits. Plaintiff filed the Complaint on November 22, 2016, less than two months
4 ago, and the Complaint awaits the court's screening required under 28 U.S.C. 1915. Thus, to date
5 the Court has not found any cognizable claims in Plaintiff's Complaint for which to initiate
6 service of process, and no other parties have yet appeared. Moreover, based on a review of the
7 record in this case, the Court finds that Plaintiff cannot adequately articulate his claims.
8 Therefore, Plaintiff's motion shall be denied without prejudice to renewal of the motion at a later
9 stage of the proceedings.

10 For the foregoing reasons, Plaintiff's motion for the appointment of counsel is HEREBY
11 DENIED, without prejudice.

12 IT IS SO ORDERED.

13 Dated: January 19, 2017

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