

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MONICO J. QUIROGA, III,
Plaintiff,
v.
DONNY YOUNGBLOOD, et al.,
Defendants.

1:17-cv-00002-BAM-(PC)

ORDER DENYING MOTION FOR
APPOINTMENT OF COUNSEL
(ECF No. 3)

Plaintiff Monico J. Quiroga, III (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action under 42 U.S.C. § 1983. On January 3, 2017, Plaintiff filed a motion seeking the appointment of counsel. (ECF No. 3.)

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. United States District Court for the Southern District of Iowa*, 490 U.S. 296, 298, 109 S.Ct. 1814, 1816 (1989). However, in certain exceptional circumstances, 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

1 the merits [and] the ability of the [plaintiff] to articulate his claims *pro se* in light of the
2 complexity of the legal issues involved." *Rand*, 113 F.3d at 1525 (internal quotation marks and
3 citations omitted).

4 In the present case, the Court does not find the required exceptional circumstances.
5 Plaintiff states that counsel should be appointed in this case because the issues are particularly
6 complex, his only education is a G.E.D., he cannot understand legal terms, and that his only way
7 to write is by hand. Even if it is assumed that Plaintiff is not well versed in the law and that he has
8 made serious allegations which, if proved, would entitle him to relief, his case is not exceptional.
9 This Court is faced with similar cases almost daily. Furthermore, at this early stage in the
10 proceedings, the Court cannot make a determination that Plaintiff is likely to succeed on the
11 merits, and based on a review of the record in this case, the Court does not find that Plaintiff
12 cannot adequately articulate his claims. *Rand*, 113 F.3d at 1525.

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

15 IT IS SO ORDERED.
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17 Dated: January 9, 2017

/s/ *Barbara A. McAuliffe*
18 UNITED STATES MAGISTRATE JUDGE
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