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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

WILLIAM J. GRADFORD,  
Plaintiff,  
v.  
Mc DOUGALL, et al.,  
Defendants.

1:17-cv-00201-DAD-GSA (PC)  
ORDER DENYING MOTION FOR  
APPOINTMENT OF COUNSEL  
(Document# 36)

On April 2, 2018, plaintiff filed a motion seeking the appointment of counsel. 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). However, 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.

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 claims *pro se* in light of the complexity of the legal issues involved.” Id. (internal quotation marks and citations omitted).

1 In the present case, Plaintiff argues that he fears retaliation, has physical and mental  
2 disabilities, and is not trained in the law. This alone does not make Plaintiff's case exceptional.  
3 While the Court has found that Plaintiff's complaint states claims under § 1983 against  
4 defendants Tiexiera and McCarthy for retaliation in violation of the First Amendment," this  
5 finding is not a determination that Plaintiff is likely to succeed on the merits. (ECF No. 19 at  
6 1:22-24.) Plaintiff's retaliation claims do not appear complex, and based on a review of the  
7 record in this case, it appears that Plaintiff can adequately articulate his claims and respond to  
8 court orders. Thus, the Court does not find the required exceptional circumstances, and Plaintiff's  
9 motion shall be denied without prejudice to renewal of the motion at a later stage of the  
10 proceedings.

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

13 IT IS SO ORDERED.

14 Dated: April 5, 2018

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