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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

JAMES BOWELL,

Plaintiff,

vs.

F. MONTOYA, et al.,

Defendants.

1:17-cv-00605-LJO-GSA-PC

**ORDER DENYING MOTION FOR  
APPOINTMENT OF COUNSEL**

Plaintiff has requested 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 (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, the court does not find the required exceptional circumstances. At  
2 this stage of the proceedings, it is too early to determine whether Plaintiff is likely to succeed on  
3 the merits. The court finds that Plaintiff can adequately articulate his claims, and Plaintiff's  
4 claims -- for retaliation, due process, and failure to protect Plaintiff -- are not complex. Therefore,  
5 Plaintiff's request for appointment of counsel shall be denied, without prejudice to renewal of the  
6 motion at a later stage of the proceedings.

7 Therefore, it is **HEREBY ORDERED** that Plaintiff's request for appointment of counsel  
8 be DENIED, without prejudice.

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10 IT IS SO ORDERED.

11 Dated: October 1, 2018

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