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**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

SHAJIA AYOBI,	)	Case No.: 1:17-cv-00693-DAD-SAB (PC)
Plaintiff,	)	
v.	)	ORDER DENYING PLAINTIFF’S THIRD
	)	REQUEST FOR APPOINTMENT OF COUNSEL,
BARBARA SHOWALTER,	)	WITHOUT PREJUDICE
Defendant.	)	[ECF No. 40]
	)	
	)	
	)	

Plaintiff Shajia Ayobi is appearing pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983.

Currently before the Court is Plaintiff’s third request for appointment of counsel, filed January 30, 2019.

As Plaintiff is aware, she 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 any attorney to represent her 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

1 likelihood of success on the merits [and] the ability of the [plaintiff] to articulate [her] claims pro se in  
2 light of the complexity of the legal issues involved.” Id. (internal quotation marks and citations  
3 omitted). The test for exceptional circumstances requires the court to evaluate a plaintiff’s likelihood  
4 of success on the merits and the ability of the plaintiff to articulate his or her claims pro se in light of  
5 the complexity of the legal issues involved. See Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th Cir.  
6 1986); Weygandt v. Look, 718 F.2d 952, 954 (9th Cir. 1983). Circumstances common to most  
7 prisoners, such as lack of legal education and limited law library access, do not establish exceptional  
8 circumstances that would warrant a request for voluntary assistance of counsel.

9 In this case, the Court does not find the exceptional circumstances necessary to request  
10 volunteer counsel at this time. The Court does not find the legal issues here to be particularly  
11 complex. The record reflects that Plaintiff has adequately articulated her claim, and as a result the  
12 undersigned has recommended that this case proceed on Plaintiff’s claim for monetary damages for  
13 deliberate indifference to a serious medical need. While a pro se litigant may be better served with the  
14 assistance of counsel, so long as a pro se litigant, such as Plaintiff in this instance, is able to “articulate  
15 [her] claims against the relative complexity of the matter,” the “exceptional circumstances” which  
16 might require the appointment of counsel do not exist. Rand v. Rowland, 113 F.3d at 1525 (finding no  
17 abuse of discretion under 28 U.S.C. § 1915(e) when district court denied appointment of counsel  
18 despite fact that pro se prisoner “may well have fared better-particularly in the realm of discovery and  
19 the securing of expert testimony.”) Further, there has not been a substantial change in the  
20 circumstance from the previous two requests, and Plaintiff’s third motion for appointment of counsel  
21 is denied, without prejudice.

22  
23 IT IS SO ORDERED.

24 Dated: January 31, 2019



UNITED STATES MAGISTRATE JUDGE