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7	LINITED STAT	TE DISTRICT COURT
8	UNITED STATES DISTRICT COURT EASTERN DISTRICT OF CALIFORNIA	
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10	SHAJIA AYOBI,) Case No.: 1:17-cv-00693-DAD-SAB (PC)
	Plaintiff,) Case No.: 1.17-CV-00095-DAD-SAB (FC)
12 13) ORDER DENYING PLAINTIFF'S FOURTH MOTION FOR APPOINTMENT OF COUNSEL,
13	v. BARBARA SHOWALTER,) WITHOUT PREJUDICE
14	Defendant.) [ECF No. 42]
15		,))
10	Plaintiff Shajia Ayobi is appearing pro se and in forma pauperis in this civil rights action	
18	pursuant to 42 U.S.C. § 1983.	
19	Currently before the Court is Plaintiff's fourth motion for appointment of counsel, filed March	
20	6, 2019.	
21	As Plaintiff is well aware, she does not have a constitutional right to appointed counsel in this	
22	action, <u>Rand v. Rowland</u> , 113 F.3d 1520, 1525 (9th Cir. 1997), and the Court cannot require any	
23	attorney to represent her pursuant to 28 U.S.C. § 1915(e)(1), Mallard v. United States District Court	
24	for the Southern District of Iowa, 490 U.S. 296, 298 (1989). However, in certain exceptional	
25	circumstances the Court may request the voluntary assistance of counsel pursuant to section	
26	1915(e)(1). <u>Rand</u> , 113 F.3d at 1525. Without a reasonable method of securing and compensating	
27	counsel, the Court will seek volunteer counsel only in the most serious and exceptional cases. In	
28	determining whether "exceptional circumstances exist, the district court must evaluate both the	
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1 likelihood of success on the merits [and] the ability of the [plaintiff] to articulate [her] claims pro se in light of the complexity of the legal issues involved." Id. (internal quotation marks and citations 2 omitted). The test for exceptional circumstances requires the court to evaluate a plaintiff's likelihood 3 of success on the merits and the ability of the plaintiff to articulate his or her claims pro se in light of 4 the complexity of the legal issues involved. See Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th Cir. 5 1986); Weygandt v. Look, 718 F.2d 952, 954 (9th Cir. 1983). Circumstances common to most 6 prisoners, such as lack of legal education and limited law library access, do not establish exceptional 7 circumstances that would warrant a request for voluntary assistance of counsel. 8

9 In this case, the Court does not find the exceptional circumstances necessary to request volunteer counsel at this time. The Court does not find the legal issues here to be particularly 10 11 complex. The record reflects that Plaintiff has adequately articulated her claim, and as a result the undersigned has recommended that this case proceed on Plaintiff's claim for monetary damages for 12 deliberate indifference to a serious medical need. While a pro se litigant may be better served with the 13 assistance of counsel, so long as a pro se litigant, such as Plaintiff in this instance, is able to "articulate 14 [her] claims against the relative complexity of the matter," the "exceptional circumstances" which 15 16 might require the appointment of counsel do not exist. Rand v. Rowland, 113 F.3d at 1525 (finding no abuse of discretion under 28 U.S.C. § 1915(e) when district court denied appointment of counsel 17 despite fact that pro se prisoner "may well have fared better-particularly in the realm of discovery and 18 the securing of expert testimony.") Further, there has not been a substantial change in the circumstance from the previous three requests, the latest having been denied just over one month ago, on January 31, 2019. Accordingly, Plaintiff's fourth motion for appointment of counsel is denied, without prejudice.

IT IS SO ORDERED.

Dated: <u>March 7, 2019</u>

Tot A. B.

UNITED STATES MAGISTRATE JUDGE