

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

Plaintiff Robert C. Williams 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 motion for appointment of counsel, filed September 1, 2017.

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 any 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.

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1       Without a reasonable method of securing and compensating counsel, the court will seek  
2 volunteer counsel only in the most serious and exceptional cases. In determining whether  
3 "exceptional circumstances exist, the district court must evaluate both the likelihood of success on the  
4 merits [and] the ability of the [plaintiff] to articulate his claims pro se in light of the complexity of the  
5 legal issues involved." Id. (internal quotation marks and citations omitted).

6       In the present case, the Court does not find the required exceptional circumstances. Plaintiff  
7 contends, among other things, that his mental health condition makes it difficult for him to effectively  
8 prosecute this action. While Plaintiff has attached documentation demonstrating that he has a  
9 disability under the Americans with Disabilities Act and he receives mental health treatment, the Court  
10 does not find that the exceptional factors necessary to justify appointment of counsel exist in this case,  
11 at the present time. Plaintiff's current motion demonstrates that Plaintiff understands the process and  
12 how to file documents. Furthermore, the Court cannot evaluate the likelihood of success of the merits  
13 at this juncture, and the record in this case demonstrates sufficient writing ability and legal knowledge  
14 to articulate the claims asserted. Moreover, circumstances common to most prisoners, such as lack of  
15 legal education and limited law library access, do not establish exceptional circumstances that would  
16 warrant a request for voluntary assistance of counsel. Accordingly, Plaintiff's motion for appointment  
17 of counsel is denied, without prejudice.

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19 IT IS SO ORDERED.

20 Dated: September 7, 2017



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UNITED STATES MAGISTRATE JUDGE