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

KEITH REAGAN CARTER,

Plaintiff,

v.

CALIFORNIA HEALTH CARE
SERVICES, et al.,

Defendants.

1:17-cv-01374-DAD-GSA-PC

**ORDER DENYING MOTION FOR
APPOINTMENT OF COUNSEL
(ECF No. 28.)**

Plaintiff, Keith Reagan Carter, is a state prisoner proceeding *pro se* and *in forma pauperis* with this civil rights action pursuant to 42 U.S.C. § 1983.

On October 10, 2019, 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 (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

1 “exceptional circumstances exist, the district court must evaluate both the likelihood of success
2 of the merits [and] the ability of the [plaintiff] to articulate his claims *pro se* in light of the
3 complexity of the legal issues involved.” Id. (internal quotation marks and citations omitted).

4 In the present case, the court does not find the required exceptional circumstances. On
5 August 15, 2019, the Court entered findings and recommendations, recommending that this case
6 be dismissed for Plaintiff’s failure to state a claim upon which relief may be granted. (ECF No.
7 26.) Therefore, it appears that Plaintiff is unlikely to succeed on the merits. Plaintiff asserts that
8 he is indigent, unable to afford counsel, and needs professional assistance so that his interests
9 may be protected. These conditions, although unfortunate, do not make Plaintiff’s case
10 exceptional under the law. Plaintiff’s case stems from allegations that prison staff improperly
11 and unexpectedly deducted funds from his prison trust account for \$5.00 co-payments for medical
12 and dental care at the prison, violating his rights to due process and medical care. Plaintiff alleges
13 that his requests for return of the funds were denied. These claims are not complex, and a review
14 of the record shows that Plaintiff is responsive, adequately communicates, and is able to articulate
15 his claims. Therefore, Plaintiff’s motion shall be denied, without prejudice to renewal of the
16 motion at a later stage of the proceedings.

17 Accordingly, for the foregoing reasons, Plaintiff’s motion for the appointment of counsel
18 is **HEREBY DENIED**, without prejudice.

19
20 **IT IS SO ORDERED.**

21 Dated: **October 17, 2019**

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