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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ROGELIO MAY RUIZ,
Plaintiff,
v.
J. CURRY,
Defendant.

1:17-cv-01407-DAD-SKO (PC)

ORDER DENYING PLAINTIFF’S MOTIONS
FOR EXTENSION OF TIME AND FOR
APPOINTMENT OF COUNSEL

(Docs. 32, 33)

On February 6, 2019, Plaintiff filed a motion seeking the appointment of counsel, (Doc. 33), and a motion seeking an extension of time to file objections to the Findings and Recommendations to dismiss this action based on Plaintiff’s failure to state a cognizable claim (Doc. 32).

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 of
2 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. Even
5 if it is assumed that Plaintiff is not well versed in the law and that he has made serious allegations
6 which, if proved, would entitle him to relief, his case is not exceptional. This Court is faced with
7 similar cases almost daily. Further, at this early stage in the proceedings, the Court cannot
8 determine that Plaintiff is likely to succeed on the merits and, in fact, as discussed in the Findings
9 and Recommendation, Plaintiff’s claims are not properly raised in this court since they are based
10 on deprivation of property for which state law provides adequate remedy. Even an attorney will
11 not be able to state cognizable claims on the events Plaintiff alleges in this action.

12 Plaintiff bases his request for an extension of time on difficulty obtaining copies of 48
13 pages of documents to file in objection to the pending Findings and Recommendation. Plaintiff
14 indicates that he gave his objections to prison staff for copying, but that they were returned to him
15 uncopied a few days later and were not sent to the Court. However, a 51-page document titled as
16 Plaintiff’s objections was timely received and filed. (Doc. 31.) Thus, it appears that though
17 Plaintiff did not realize it, his documents for objecting to the Findings and Recommendation were
18 copied and filed -- eliminating the need for any extension of time. Further, to the extent that
19 Plaintiff seeks an extension to copy documents proving he exhausted administrative remedies, his
20 motion is unnecessary since exhaustion has not been raised as an issue in this action.

21 For the foregoing reasons, Plaintiff’s motions filed February 6, 2019, for appointment of
22 counsel (Doc. 33) and for an extension of time to file objections to the Findings and
23 Recommendation (Doc. 32) are DENIED.

24 IT IS SO ORDERED.

25 Dated: February 8, 2019

26 /s/ Sheila K. Olerto
27 UNITED STATES MAGISTRATE JUDGE