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

ENRIQUE HUAPAYA,)	Case No. 1:17-cv-01441-DAD-SAB (PC)
)	
Plaintiff,)	
)	ORDER DENYING PLAINTIFF’S MOTION FOR
v.)	APPOINTMENT OF COUNSEL, WITHOUT
)	PREJUDICE
D. DAVEY, et al.,)	
)	[ECF No. 34]
Defendants.)	
)	
)	

Plaintiff Enrique Huapaya 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 December 26, 2018.

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 The test for exceptional circumstances requires the Court to evaluate the Plaintiff’s likelihood
7 of success on the merits and the ability of the Plaintiff to articulate his claims pro se in light of the
8 complexity of the legal issues involved. See Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th Cir.
9 1986); Weygandt v. Look, 718 F.2d 952, 954 (9th Cir. 1983). Circumstances common to most
10 prisoners, such as lack of legal education and limited law library access, do not establish exceptional
11 circumstances that would warrant a request for voluntary assistance of counsel. In the present case,
12 the Court does not find the required exceptional circumstances, and Plaintiff has adequately set forth
13 his claims in the operative complaint. Accordingly, Plaintiff’s motion for appointment of counsel will
14 be DENIED without prejudice.

15
16 IT IS SO ORDERED.

17 Dated: December 28, 2018


UNITED STATES MAGISTRATE JUDGE