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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 SECOND
v.	)	MOTION FOR APPOINTMENT OF COUNSEL
	)	
D. DAVEY, et al.,	)	[ECF No. 63]
	)	
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 second motion for appointment of counsel, filed on June 22, 2020.

As Plaintiff was previously advised, he 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. 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 “exceptional circumstances exist, the district court must evaluate both

1 the likelihood of success on the merits [and] the ability of the [plaintiff] to articulate his claims pro se  
2 in light of the complexity of the legal issues involved.” Id. (internal quotation marks and citations  
3 omitted).

4 In the present case, the Court does not find the required exceptional circumstances. As with  
5 Plaintiff’s prior motions for appointment of counsel, he contends that he is unable to litigate this action  
6 because he is illiterate, has mental disabilities, requires the assistance of another inmate to draft his  
7 documents, and is in the disability placement program. However, the Court does not find the required  
8 exceptional circumstances. Even if it is assumed that Plaintiff is not well versed in the law and that he  
9 has made serious allegations which, if proved, would entitle him to relief, his case is not exceptional.  
10 The Court is faced with similar cases almost daily. While the Court recognizes that Plaintiff is at a  
11 disadvantage due to his pro se status and his incarceration, the test is not whether Plaintiff would  
12 benefit from the appointment of counsel. See Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th Cir.  
13 1986) (“Most actions require development of further facts during litigation and a pro se litigant will  
14 seldom be in a position to investigate easily the facts necessary to support the case.”) Circumstances  
15 common to most prisoners, such as a lack of education or limited law library access, do not alone  
16 establish exceptional circumstances that would warrant a request for voluntary assistance of counsel.  
17 The legal issues present in this action are not complex. Further, there is no indication from the record  
18 that Plaintiff has been unable to adequately articulate claims and prosecute this action. Accordingly,  
19 Plaintiff’s second motion for the appointment of counsel shall be denied, without prejudice.

20  
21 IT IS SO ORDERED.

22 Dated: June 23, 2020



UNITED STATES MAGISTRATE JUDGE