

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

SAM DRAKE,
Plaintiff,
v.
SCOTT KERNAN, et al.,
Defendants.

) Case No.: 1:17-cv-01500-SAB (PC)
)
) ORDER DENYING, WITHOUT PREJUDICE,
) PLAINTIFF'S MOTION FOR APPOINTMENT OF
) COUNSEL
) [ECF No. 16]
)
)

Plaintiff Sam Drake is appearing pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983.

On February 12, 2018, 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 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 the likelihood of success on the

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

3 In the present case, the Court does not find the required exceptional circumstances.
4 Even if it assumed that Plaintiff is not well versed in the law and that he has made serious allegations
5 which, if proved, would entitle him to relief, his case is not exceptional. The legal issues present in
6 this action are not complex, and Plaintiff has thoroughly set forth his allegations in the complaint. In
7 addition, at this early stage in the proceedings, the Court cannot make a determination that Plaintiff is
8 likely to succeed on the merits, and based on a review of the record in this case, the Court does not
9 find that Plaintiff cannot adequately articulate his claims. Id. 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.

13 For the foregoing reasons, Plaintiff’s motion for the appointment of counsel is HEREBY
14 DENIED, without prejudice.

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16 IT IS SO ORDERED.

17 Dated: February 13, 2018



UNITED STATES MAGISTRATE JUDGE

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