1		
2		
3		
4		
5		
6		
7	UNITED STATES DISTRICT COURT	
8	EASTERN DISTRICT OF CALIFORNIA	
9 10	JERRY DILLINGHAM,) Case No. 1:18-cv-00507-AWI-SAB (PC)
11	Plaintiff, v.) ORDER DENYING PLAINTIFF'S MOTION FOR APPOINTMENT OF COUNSEL, WITHOUT
12	N. EMERSON, et al.,) PREJUDICE
13 14	Defendants.) [ECF No. 28])
15)
16	Plaintiff Jerry Dillingham is appearing pro se and in forma pauperis in this civil rights action	
17	pursuant to 42 U.S.C. § 1983.	
18	Currently before the Court is Plaintiff's motion for appointment of counsel, filed July 18, 2018.	
19	Plaintiff does not have a constitutional right to appointed counsel in this action, <u>Rand v.</u>	
20	Rowland, 113 F.3d 1520, 1525 (9th Cir. 1997), and the court cannot require any attorney to represent	
21	plaintiff pursuant to 28 U.S.C. § 1915(e)(1), <u>Mallard v. United States District Court for the Southern</u>	
22	District of Iowa, 490 U.S. 296, 298 (1989). However, in certain exceptional circumstances the Court	
23	may request the voluntary assistance of counsel pursuant to section 1915(e)(1). <u>Rand</u> , 113 F.3d at 1525.	
24	Without a reasonable method of securing and compensating counsel, the court will seek	
25	volunteer counsel only in the most serious and exceptional cases. In determining whether "exceptional	
26	circumstances exist, the district court must evaluate both the likelihood of success on the merits [and]	
27	the ability of the [plaintiff] to articulate his claims pro se in light of the complexity of the legal issues	
28	involved." Id. (internal quotation marks and citations omitted).	

In the present case, the Court does not find the required exceptional circumstances. Even if it assumed that Plaintiff is not well versed in the law and that he has made serious allegations which, if proved, would entitle him to relief, his case is not exceptional. The legal issues present in this action are not complex, and Plaintiff has thoroughly set forth his allegations. Further, at this early stage in the proceedings, the Court cannot yet determine that Plaintiff is likely to succeed on the merits. Further, circumstances common to most prisoners, such as lack of legal education and limited law library access, do not alone establish exceptional circumstances that would warrant a request for voluntary assistance of counsel.

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

2 || IT IS SO ORDERED.

Dated: July 19, 2018

A. Be

UNITED STATES MAGISTRATE JUDGE