## 1 2 3 4 5 6 7 UNITED STATES DISTRICT COURT 8 9 EASTERN DISTRICT OF CALIFORNIA 10 11 WADE WOLFE, Case No. 1:18-cv-00570-BAM (PC) 12 ORDER DENYING MOTION FOR Plaintiff. APPOINTMENT OF COUNSEL 13 v. (ECF No. 14) 14 STANISLAUS COUNTY, et al., 15 Defendants. 16 17 Plaintiff Wade Wolfe ("Plaintiff") is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff initiated this action in 18 19 the Sacramento division of the United States District Court for the Eastern District of California 20 on April 23, 2018. (ECF No. 1.) This action was transferred to the Fresno division on April 26, 21 2018. (ECF No. 4.) Plaintiff's complaint has not yet been screened. 22 Currently before the Court is Plaintiff's motion for appointment of counsel, filed May 24, 2018. (ECF No. 14.) Plaintiff claims that he has a disability covered under the Americans with 23 24 Disabilities Act (ADA), specifically that he suffers from low cognitive function. He requests that the Court provide him with counsel for assistance in understanding, reading, and writing 25 26 regarding his case. (Id.) 27 Plaintiff does not have a constitutional right to appointed counsel in this action, Rand v. Rowland, 113 F.3d 1520, 1525 (9th Cir. 1997), rev'd in part on other grounds, 154 F.3d 952, 954 28

n.1 (9th Cir. 1998), and the court cannot require an attorney to represent plaintiff pursuant to 28 U.S.C. § 1915(e)(1). Mallard v. U.S. Dist. Court for the S. Dist. 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, a district court must evaluate both the likelihood of success on the merits [and] the ability of the [plaintiff] to articulate his claims pro se in light of the complexity of the legal issues involved." Id. (internal quotation marks and citations omitted).

The Court has considered Plaintiff's motion for the appointment of counsel, but does not find the required exceptional circumstances. Even if it is 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. This Court is faced with similar cases filed by prisoners proceeding *pro se* and *in forma pauperis* almost daily. These prisoners also must conduct legal research, prosecute claims, and conduct discovery without the assistance of counsel.

Furthermore, at this stage in the proceedings, the Court cannot make a determination that Plaintiff is likely to succeed on the merits. Plaintiff's complaint has not been screened. Thus, the case does not yet proceed on any cognizable claims. Also, based on a review of the limited record in this case, the Court does not find that Plaintiff cannot adequately articulate his claims.

For the foregoing reasons, Plaintiff's motion to appoint counsel (ECF No. 14) is DENIED, without prejudice.

IT IS SO ORDERED.

Dated: May 29, 2018

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE