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8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**
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11 MARK A. HODGE,) Case No.: 1:19-cv-00341-LJO-SAB (PC)
12)
13 Plaintiff,)
14 v.) ORDER DENYING, WITHOUT PREJUDICE,
15 C. SANTIESTEBAN, et.al.,) PLAINTIFF'S MOTION FOR APPOINTMENT
16) OF COUNSEL
17 Defendants.) [ECF No. 25]
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18 Plaintiff Mark A. Hodge is appearing pro se and in forma pauperis in this civil rights action
19 pursuant to 42 U.S.C. § 1983.

20 Currently before the Court is Plaintiff's motion for appointment of counsel, filed October 7,
21 2019.

22 Plaintiff does not have a constitutional right to appointed counsel in this action, Rand v.
23 Rowland, 113 F.3d 1520, 1525 (9th Cir. 1997), and the court cannot require any attorney to represent
24 plaintiff pursuant to 28 U.S.C. § 1915(e)(1). Mallard v. United States District Court for the Southern
25 District of Iowa, 490 U.S. 296, 298 (1989). However, in certain exceptional circumstances the court
26 may request the voluntary assistance of counsel pursuant to section 1915(e)(1). Rand, 113 F.3d at
27 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 Plaintiff assert this case involves complicated issues and confidential discovery, and he has
7 recently suffered an injury to his left hand which makes writing difficult. Plaintiff’s request must be
8 denied, without prejudice, as neither the interests of justice nor exceptional circumstances warrant
9 appointment of counsel at this time. Plaintiff has thus far been able to articulate his claims, and has
10 continued to litigate this action. Even if it assumed that Plaintiff is not well versed in the law and that
11 he has made serious allegations which, if proved, would entitle him to relief, his case is not
12 exceptional. The Court is faced with similar cases almost daily. While the Court recognizes that
13 Plaintiff is at a disadvantage due to his pro se status and his incarceration, the test is not whether
14 Plaintiff would benefit from the appointment of counsel. See Wilborn v. Escalderon, 789 F.2d 1328,
15 1331 (9th Cir. 1986) (“Most actions require development of further facts during litigation and a pro se
16 litigant will seldom be in a position to investigate easily the facts necessary to support the case.”) The
17 test is whether exception circumstances exist and here, they do not. Circumstances common to most
18 prisoners, such as lack of legal education and limited law library access, do not establish exceptional
19 circumstances that would warrant a request for voluntary assistance of counsel. Accordingly,
20 Plaintiff’s motion for the appointment of counsel is denied, without prejudice.

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22 IT IS SO ORDERED.

23 Dated: October 8, 2019


UNITED STATES MAGISTRATE JUDGE