

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

JEFF AIDNIK,)	2:08-cv-02583-HDM-RAM
)	
Plaintiff,)	
)	ORDER
vs.)	
)	
CALIFORNIA MEDICAL FACILITY, et)	
al.,)	
)	
Defendants.)	
_____)	

Before the court is the plaintiff's motion for appointment of counsel (#31). 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 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

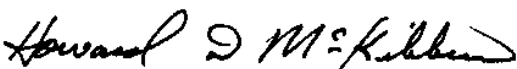
1 1915(e) (1). *Rand*, 113 F.3d at 1525.

2 Without a reasonable method of securing and compensating
3 counsel, the court will seek volunteer counsel only in the most
4 serious and exceptional cases. In determining whether "exceptional
5 circumstances exist, the district court must evaluate both the
6 likelihood of success of the merits [and] the ability of the
7 [plaintiff] to articulate his claims pro se in light of the
8 complexity of the legal issues involved." *Id.* (internal quotation
9 marks and citations omitted).

10 In the present case, the court does not find the required
11 exceptional circumstances. Notwithstanding plaintiff's claim of a
12 learning disability, plaintiff's pleadings have been lucid, well
13 presented, and demonstrate a grasp of his constitutional and
14 statutory rights. Even if it is assumed that plaintiff is not well
15 versed in the law and that he has made serious allegations which,
16 if proved, would entitle him to relief, his case is not
17 exceptional. This court is faced with similar cases almost daily.
18 Further, at this early stage in the proceedings, the court cannot
19 make a determination that plaintiff is likely to succeed on the
20 merits, and based on a review of the record in this case, the court
21 does not find that plaintiff cannot adequately articulate his
22 claims. *Id.*

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

25 DATED: This 27th day of July, 2009.

26 

27 UNITED STATES DISTRICT JUDGE

28