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

Mike	. J.	Moreno,
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No. 2:09-cv-01362-SRT

Plaintiff,

vs.

ORDER DENYING MOTION FOR APPOINTMENT OF COUNSEL

California Department of Corrections, et al.,

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Defendants.

On June 28, 2010, Plaintiff filed a motion for appointment of counsel. Plaintiff does not have a constitutional right to appointed counsel in this action, *Storseth v. Spellman*, 654 F.2d 1349, 1353 (9th Cir. 1981), and the court cannot require an 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). *Palmer v. Valdez*, 560 F.3d 965, 970 (9th Cir. 2009).

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 of 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).

In the present case, the court does not find that there are exceptional circumstances warranting the appointment of counsel. There may be a likelihood of success on the merits of plaintiff's claims if proven. However, circumstances that are common to most prisoners, such as lack of legal education and limited law library access, do not establish the required exceptional circumstances. Further, based on a review of the record in this case, the court does not find that

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

DATED: July 6, 2010

plaintiff cannot adequately articulate his claims.

/s/ Sidney R. Thomas

Sidney R. Thomas, United States Circuit Judge Sitting By Designation