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8	UNITED STATES DISTRICT COURT	
9	EASTERN DISTRICT OF CALIFORNIA	
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11	KEVIN GUNN,	) Case No.: 1:08-cv-01038-LJO-SAB (PC)
12	Plaintiff,	) ) ) ORDER DENYING PLAINTIFF'S
13	v.	MOTION FOR APPOINTMENT OF COUNSEL
14	JAMES TILTON, et al.,	) [ECF No. 121]
15	Defendants.	)
16		<u>´</u> )
17	Plaintiff Kevin Gunn is appearing pro se and in forma pauperis in this civil rights action	
18	pursuant to 42 U.S.C. § 1983.	
19	On September 23, 2013, Plaintiff filed a motion seeking the appointment of counsel. Plaintiff	
20	does not have a constitutional right to appointed counsel in this action, <u>Rand v. Rowland</u> , 113 F.3d	
21	1520, 1525 (9th Cir. 1997), and the court cannot require any attorney to represent plaintiff pursuant to	
22	28 U.S.C. § 1915(e)(1). Mallard v. United States District Court for the Southern District of Iowa, 490	
23	U.S. 296, 298 (1989). However, in certain exceptional circumstances the court may request the	
24	voluntary assistance of counsel pursuant to section 1915(e)(1). Rand, 113 F.3d at 1525.	
25	Without a reasonable method of securing and compensating counsel, the court will seek	
26	volunteer counsel only in the most serious and exceptional cases. In determining whether	
27	"exceptional circumstances exist, the district court must evaluate both the likelihood of success on the	
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merits [and] the ability of the [plaintiff] to articulate his claims pro se in light of the complexity of the legal issues involved." <u>Id.</u> (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. Plaintiff alleges an Eighth Amendment claim against two defendants for using excessive force. The legal issues present in this action are not complex, and Plaintiff has articulated his claims numerous times in pleadings filed in the action. The Court does not find exceptional circumstances to warrant appointment of coursel in this case.

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

|| IT IS SO ORDERED.

Dated:

**October 8, 2013** 

Sung A. Be

UNITED STATES MAGISTRATE JUDGE