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

IVAN RAY CARTER, JR.,

1:08-cv-01841 AWI DLB (PC)

Plaintiff,

ORDER DENYING MOTION FOR
APPOINTMENT OF COUNSEL

v.

A. FERNANDEZ, et al.,

(#96)

Defendants.

_____ /

On October 4, 2011, plaintiff filed a motion seeking the appointment of counsel. 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. 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). *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, 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).

1 In the present case, the Court does not find the required exceptional circumstances. Even
2 if it is assumed that Plaintiff is not well versed in the law and that he has made serious
3 allegations which, if proved, would entitle him to relief, his case is not exceptional. This Court is
4 faced with similar cases almost daily. Plaintiff has demonstrated that he is capable of litigating
5 this action. The claims in this action are not legally complex, as it involves an alleged excessive
6 force incident and subsequent failure to provide medical treatment.

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

9 IT IS SO ORDERED.

10 **Dated: November 15, 2011**

/s/ Dennis L. Beck
UNITED STATES MAGISTRATE JUDGE