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

IVAN RAY CARTER, JR.,
Plaintiff,
vs.
A. FERNANDEZ, et al.,
Defendants.

1:08-cv-01841-SKO (PC)
ORDER DENYING MOTION FOR
APPOINTMENT OF COUNSEL
(Doc. 134)

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On March 12, 2012, Plaintiff filed a motion seeking the appointment of counsel. Plaintiff does not have a constitutional right to the appointment of counsel in this action. Palmer v. Valdez, 560 F.3d 965, 970 (9th Cir. 2009); Storseth v. Spellman, 654 F.2d 1349, 1353 (9th Cir. 1981). The Court may request the voluntary assistance of counsel pursuant to 28 U.S.C. § 1915(e)(1), but it will do so only if exceptional circumstances exist. Palmer, 560 F.3d at 970; Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th Cir. 1981). In making this determination, the Court must evaluate the likelihood of success on the merits and the ability of Plaintiff to articulate his claims *pro se* in light of the complexity of the legal issues involved. Palmer, 560 F.3d at 970 (citation and quotation marks omitted); Wilborn, 789 F.2d at 1331. Neither consideration is dispositive and they must be viewed together. Palmer, 560 F.3d at 970 (citation and quotation marks omitted); Wilborn 789 F.2d at 1331.

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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. The Court is
4 faced with similar cases almost daily. Further, the Court cannot make a determination that
5 Plaintiff is likely to succeed on the merits. This action arises out of an incident of alleged
6 excessive force and as such, resolution will be based upon credibility determinations made by the
7 jury. Finally, the legal issues are not complex and the record reflects Plaintiff's ability to
8 articulate his claims.

9 For the foregoing reasons, Plaintiff's motion for the appointment of counsel is HEREBY
10 DENIED. Palmer, 560 F.3d at 970; Wilborn 789 F.2d at 1331.

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12 IT IS SO ORDERED.

13 **Dated:** March 20, 2012

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE