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

JAMES CRANE,

1:10-cv-02373-LJO-DLB (PC)

Plaintiff,

ORDER DENYING MOTION FOR  
APPOINTMENT OF COUNSEL

vs.

JAMES A. YATES, et al,

( #60)

Defendants.

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On January 11, 2013, 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, 109 S.Ct. 1814, 1816 (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.

5 Moreover, although this action is proceeding to trial, the issue is not overly complex.  
6 Plaintiff is alleging an excessive force claim arising out of one incident, against one defendant.  
7 Nor does Plaintiff's confinement to a wheelchair require appointment of counsel. During trial,  
8 Plaintiff will be seated at a table with his legal materials within reach.

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

11  
12 IT IS SO ORDERED.

13 **Dated: January 15, 2013**

**/s/ Dennis L. Beck**  
UNITED STATES MAGISTRATE JUDGE