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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

TRACY TAYLOR,
Plaintiff,
v.
SHAY OHANNESSON, et al.,
Defendants.

1:11-cv-00538 LJO SAB (PC)

ORDER DENYING PLAINTIFF
SECOND MOTION FOR APPOINTMENT
OF COUNSEL

(ECF No. 40)

On January 9, 2014, plaintiff filed a second motion seeking the appointment of counsel. Previously, on February 21, 2013, Plaintiff filed a motion for the appointment of counsel. Plaintiff's motion was denied on February 25, 2013, as exceptional circumstances to justify the appointment of counsel was not present.

As with Plaintiff's first motion for counsel, exceptional circumstances are still not present to warrant 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.

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1 Without a reasonable method of securing and compensating counsel, the court will seek
2 volunteer counsel only in the most serious and exceptional cases. In determining whether
3 “exceptional circumstances exist, the district court must evaluate both the likelihood of success
4 of the merits [and] the ability of the [plaintiff] to articulate his claims *pro se* in light of the
5 complexity of the legal issues involved.” Id. (internal quotation marks and citations omitted).

6 In the present case, the court does not find the required exceptional circumstances. Even
7 if it is assumed that plaintiff is not well versed in the law and that he has made serious allegations
8 which, if proved, would entitle him to relief, his case is not exceptional. Plaintiff is proceeding
9 against Defendants Ohanneson, Duran, and Smith, for excessive force in violation of the Eight
10 Amendment. This court is faced with similar cases almost daily. Further, the court has reviewed
11 the record and does not find that plaintiff cannot adequately articulate his claims. Id.

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

14 IT IS SO ORDERED.

15 Dated: January 13, 2014

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18 UNITED STATES MAGISTRATE JUDGE
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