



1 In the present motion for appointment of counsel, Plaintiff contends that he “has come across  
2 a particular problem that he cannot handle by himself.” (ECF No. 43, at 1.) Plaintiff submits that  
3 “evidence exist[s] that will prove each element of Plaintiff[’s] claim but he is unable to obtain the  
4 evidence because it is beyond his capabilities to do so.” (Id. at 2.) Plaintiff references a videotape  
5 interview of himself and a copy of the trial transcripts of the criminal proceedings in the Kern County  
6 Superior Court in which Defendants O’Hanneson and Duran testified against Plaintiff.

7 There is no constitutional right to appointed counsel in this action, Rand v. Rowland, 113 F.3d  
8 1520, 1525 (9th Cir. 1997), and the court cannot require any attorney to represent plaintiff pursuant to  
9 28 U.S.C. § 1915(e)(1). Mallard v. United States District Court for the Southern District of Iowa, 490  
10 U.S. 296, 298 (1989). However, in certain exceptional circumstances the court may request the  
11 voluntary assistance of counsel pursuant to section 1915(e)(1). Rand, 113 F.3d at 1525.

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

17 In the present case, the Court does find that neither the interests of justice nor exceptional  
18 circumstances warrant appointment of counsel at this time. LaMere v. Risley, 827 F.2d 622, 626 (9th  
19 Cir. 1987); Terrell v. Brewer, 935 F.2d 1015, 1017 (9th Cir. 1991). The Court previously denied  
20 Plaintiff’s requests and nothing has substantially changed in this case since that time to change the  
21 Court’s analysis. Plaintiff is proceeding on a claim of excessive force and the legal issues present in  
22 this action are not complex, and Plaintiff has thoroughly set forth his allegations in the complaint.

23 While a pro se litigant may be better served with the assistance of counsel, so long as a pro se  
24 litigant, such as Plaintiff in this instance, is able to “articulate his claims against the relative  
25 complexity of the matter,” the “exceptional circumstances” which might require the appointment of  
26 counsel do not exist. Rand v. Rowland, 113 F.3d at 1525 (finding no abuse of discretion under 28  
27 U.S.C. § 1915(e) when district court denied appointment of counsel despite fact that pro se prisoner  
28 “may well have fared better-particularly in the realm of discovery and the securing of expert

1 testimony.”) Thus, the Court finds that Plaintiff’s arguments, without supporting documentation,  
2 regarding his ability to obtain discovery are not exceptional circumstances warranting the appointment  
3 of counsel at this time. Accordingly, Plaintiff motion for appointment of counsel is DENIED, without  
4 prejudice.

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6 IT IS SO ORDERED.

7 Dated: May 6, 2014



8 UNITED STATES MAGISTRATE JUDGE

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