

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

RONALD F. MARTINEZ,

Plaintiff,

vs.

KATHLEEN ALLISON, Warden, *et al.*,

Defendants.

Case No. 1:11-cv-001749-RRB

ORDER DENYING
MOTION AT DOCKET 96

At **Docket 96** Plaintiff Ronald F. Martinez renewed his request for Appointment of Counsel. As this Court explained in its earlier Order denying appointment of counsel,¹ a state prisoner has no right to counsel in civil actions.² “However, a court may under exceptional circumstances appoint counsel for indigent civil litigants pursuant to 28 U.S.C. § 1915(e)(1). When determining whether exceptional circumstances exist, a court must consider the likelihood of success on the merits as well as the ability of the petitioner to articulate his claims *pro se* in light of the complexity of the legal issues involved. Neither of these considerations is dispositive, instead they must be viewed together.”³

¹ Docket 31.

² See *Storseth v. Spellman*, 654 F.2d 1349, 1353 (9th Cir. 1981) (holding that there is no constitutional right to appointed counsel for § 1983 claims).

³ *Palmer v. Valdez*, 560 F.3d 965, 970 (9th Cir. 2009) (citations and internal quotation marks omitted).

As this Court previously noted, this case presents a relatively straightforward Eighth Amendment excessive force claim. Neither the law nor the facts associated with excessive force claims is unduly complex. The availability of *pro bono* counsel to represent indigent prisoners is limited. Nothing in the renewed motion raises any matter not considered by the Court in denying Martinez's first motion. While this Court is not unmindful of the value of the assistance of counsel, both to Plaintiff and the Court itself, this is not a case in which it is necessary to appoint counsel.

Accordingly, Plaintiff's Request for Appointment of Counsel at **Docket 96** is **DENIED**.

IT IS SO ORDERED this 10th day of August, 2015.

S/ RALPH R. BEISTLINE
UNITED STATES DISTRICT JUDGE