

1
2
3
4 **UNITED STATES DISTRICT COURT**

5 EASTERN DISTRICT OF CALIFORNIA

6 STEVEN R. EDWARDS,

7 Plaintiff,

8 v.

9 A. DESFOSSE, et al.,

10 Defendants.

Case No. 1:13-cv-01013-AWI-SAB-PC

ORDER DENYING PLAINTIFF’S MOTION
FOR APPOINTMENT OF COUNSEL

(ECF NO. 38)

11
12 Plaintiff Edwards is a state prisoner appearing pro se and in forma pauperis in this civil
13 rights action pursuant to 42 U.S.C. § 1983.

14 On September 28, 2015, Plaintiff filed a motion for the appointment of counsel. (ECF
15 No. 38.) Plaintiff has not previously sought the appointment of counsel.

16 Plaintiff is advised that there is no constitutional right to appointed counsel in this action,
17 Rand v. Rowland, 113 F.3d 1520, 1525 (9th Cir. 1997), and the Court cannot require any attorney
18 to represent Plaintiff pursuant to 28 U.S.C. § 1915(e)(1). Mallard v. United States District Court
19 for the Southern District of Iowa, 490 U.S. 296, 298 (1989). However, in certain exceptional
20 circumstances the court may request the voluntary assistance of counsel pursuant to section
21 195(e)(1). Rand, 113 F.3d at 1525.

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

27 In the present case, the Court has considered Plaintiff’s moving papers, but does not find
28

1 the required exceptional circumstances. LaMere v. Risley, 827 F.2d 622, 626 (9th Cir. 1987);
2 Terrell v. Brewer, 935 F.2d 1015, 1017 (9th Cir. 1991). Plaintiff is proceeding on a claim of
3 excessive force and failure to decontaminate. Plaintiff contends that the issues in this case are
4 complex and he cannot afford counsel. The Court finds that the issues in this case are not
5 complex, and Plaintiff has adequately prosecuted this action.

6 While a pro se litigant may be better served with the assistance of counsel, so long as a
7 pro se litigant, such as Plaintiff in this instance, is able to “articulate his claims against the
8 relative complexity of the matter,” the “exceptional circumstances” which might require the
9 appointment of counsel do not exist. Rand, 113 F.3d at 1525 (finding no abuse of discretion
10 under 28 U.S.C. §1915(e) when district court denied appointment of counsel despite fact that pro
11 se prisoner “may well have fared better – particularly in the realm of discovery and the securing
12 of expert testimony.”) Accordingly, IT IS HEREBY ORDERED that Plaintiff’s motion for the
13 appointment of counsel is DENIED.

14 IT IS SO ORDERED.

15 Dated: September 30, 2015

16 
17 _____
18 UNITED STATES MAGISTRATE JUDGE

19
20
21
22
23
24
25
26
27
28