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4 **UNITED STATES DISTRICT COURT**

5 EASTERN DISTRICT OF CALIFORNIA

6 WILLIAM BROWN,
7 Plaintiff,

8 v.

9 C. GIPSON, et al.,
10 Defendants.
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Case No. 1:13-cv-02084-BAM-PC

ORDER DENYING PLAINTIFF’S MOTION
FOR APPOINTMENT OF COUNSEL

(ECF NO. 20)

12 Plaintiff Brown is a state prisoner appearing pro se and in forma pauperis in this civil
13 rights action pursuant to 42 U.S.C. § 1983. Plaintiff has consented to magistrate judge
14 jurisdiction pursuant to 28 U.S.C. § 636(c).

15 On December 9, 2015, Plaintiff filed a motion for the appointment of counsel. (ECF No.
16 20.) Plaintiff has not previously sought the appointment of counsel.

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

23 Without a reasonable method of securing and compensating counsel, the Court will seek
24 volunteer counsel only in the most serious and exceptional cases. In determining whether
25 “exceptional circumstances exist, the district court must evaluate both the likelihood of success
26 on the merits [and] the ability of the [plaintiff] to articulate his claims pro se in light of the
27 complexity of the legal issues involved.” Id. (internal quotation marks and citations omitted).
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1 In the present case, the Court has considered Plaintiff's moving papers, but does not find
2 the required exceptional circumstances. LaMere v. Risley, 827 F.2d 622, 626 (9th Cir. 1987);
3 Terrell v. Brewer, 935 F.2d 1015, 1017 (9th Cir. 1991). Plaintiff is proceeding on a claims of
4 excessive force and denial of due process. The legal issues present in this action are not
5 complex, and Plaintiff has thoroughly set forth his arguments in the complaint filed in this
6 action. Plaintiff's sole argument for the appointment of counsel is his in forma pauperis status.

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

14 Accordingly, IT IS HEREBY ORDERED that Plaintiff's motion for the appointment of
15 counsel is DENIED.

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17 IT IS SO ORDERED.

18 Dated: December 16, 2015

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE