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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ROBERT DEWAYNE BOSLEY, JR.,
Plaintiff,
v.
M. VELASCO, et al.,
Defendants.

Case No. 1:14-cv-00049-MJS (PC)

**ORDER DENYING PLAINTIFF'S
MOTIONS TO APPOINT COUNSEL
(ECF Nos. 73, 74, 78)**

Plaintiff is proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. The action proceeds on Plaintiff's Second Amended Complaint charging Defendant Velasco with excessive force in violation of the Fourteenth Amendment. This matter is set for a trial on January 18, 2017. (ECF No. 75.)

Now pending are Plaintiff's three motions for appointment of counsel. (ECF Nos. 73, 74, 78.) In each motion, Plaintiff contends that his ability to properly litigate this action is affected by his in forma pauperis status and his imprisonment. Plaintiff's previously-filed motion for appointment of counsel was denied on June 18, 2015. (ECF Nos. 25, 27.)

1 Plaintiff does not have a constitutional right to appointed counsel in this action,
2 Rand v. Rowland, 113 F.3d 1520, 1525 (9th Cir. 1997), and the court cannot require an
3 attorney to represent plaintiff pursuant to 28 U.S.C. § 1915(e)(1). Mallard v. United
4 States District Court for the Southern District of Iowa, 490 U.S. 296, 298, 109 S.Ct.
5 1814, 1816 (1989).

6 In certain exceptional circumstances the court may request the voluntary
7 assistance of counsel pursuant to section 1915(e)(1). Rand, 113 F.3d at 1525.
8 However, without a reasonable method of securing and compensating counsel, the
9 Court will seek volunteer counsel only in the most serious and exceptional cases. In
10 determining whether “exceptional circumstances exist, the district court must evaluate
11 both the likelihood of success of the merits [and] the ability of the [plaintiff] to articulate
12 his claims *pro se* in light of the complexity of the legal issues involved.” Id. (internal
13 quotation marks and citations omitted).

14 In the present case, the Court does not find the required exceptional
15 circumstances. Even if it is assumed that Plaintiff is not well versed in the law and that
16 he has made serious allegations which, if proved, would entitle him to relief, his case is
17 not exceptional. This Court is faced with similar cases almost daily. Further, despite his
18 in forma pauperis status and his incarceration, Plaintiff was successful in opposing
19 Defendant’s motion for summary judgment, thus demonstrating his ability to adequately
20 litigate this case.

21 For the foregoing reasons, Plaintiff’s motions for the appointment of counsel
22 (ECF Nos. 73, 74, 78) are HEREBY DENIED.

23
24 IT IS SO ORDERED.

25
26 Dated: October 3, 2016

27 /s/ Michael J. Seng
28 UNITED STATES MAGISTRATE JUDGE