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**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

DOMINIQUE D. BAKER,	)	Case No.: 1:16-cv-01873-SAB (PC)
	)	
Plaintiff,	)	
	)	ORDER DENYING, WITHOUT PREJUDICE,
v.	)	PLAINTIFF’S MOTION FOR APPOINTMENT
	)	OF COUNSEL
HUMBERTO GERMAN, et al.,	)	
	)	[ECF No. 33]
Defendants.	)	
	)	

Plaintiff Dominique Baker is appearing pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983.

On September 29, Plaintiff filed a motion for appointment of counsel. (ECF No. 33.)

Plaintiff does not have a constitutional right to appointed counsel in this action, Rand v. Rowland, 113 F.3d 1520, 1525 (9th Cir. 1997), and the court cannot require any attorney to represent plaintiff pursuant to 28 U.S.C. § 1915(e)(1). Mallard v. United States District Court for the Southern District of Iowa, 490 U.S. 296, 298 (1989). However, in certain exceptional circumstances the court may request the voluntary assistance of counsel pursuant to section 1915(e)(1). Rand, 113 F.3d at 1525.

Without a reasonable method of securing and compensating counsel, the court will seek volunteer counsel only in the most serious and exceptional cases. In determining whether “exceptional circumstances exist, the district court must evaluate both the likelihood of success on the

1 merits [and] the ability of the [plaintiff] to articulate his claims pro se in light of the complexity of the  
2 legal issues involved.” Id. (internal quotation marks and citations omitted).

3 The test for exceptional circumstances requires the Court to evaluate the Plaintiff’s likelihood  
4 of success on the merits and the ability of the Plaintiff to articulate his claims pro se in light of the  
5 complexity of the legal issues involved. See Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th Cir.  
6 1986); Weygandt v. Look, 718 F.2d 952, 954 (9th Cir. 1983). This action is proceeding on Plaintiff’s  
7 excessive force claim against Defendants Humberto German and Phillip Holguin, Plaintiff has  
8 thoroughly set forth his allegations in the complaint. While a pro se litigant may be better served with  
9 the assistance of counsel, so long as a pro se litigant, such as Plaintiff in this instance, is able to  
10 “articulate his claims against the relative complexity of the matter,” the “exceptional circumstances”  
11 which might require the appointment of counsel do not exist. Rand v. Rowland, 113 F.3d at 1525  
12 (finding no abuse of discretion under 28 U.S.C. § 1915(e) when district court denied appointment of  
13 counsel despite fact that pro se prisoner “may well have fared better-particularly in the realm of  
14 discovery and the securing of expert testimony.”) In addition, circumstances common to most  
15 prisoners, such as lack of legal education and limited law library access, do not establish exceptional  
16 circumstances that would warrant a request for voluntary assistance of counsel. In the present case,  
17 the Court does not find the required exceptional circumstances. Accordingly, Plaintiff’s motion for  
18 appointment of counsel will be DENIED without prejudice.

19  
20 IT IS SO ORDERED.

21 Dated: October 2, 2017

  
UNITED STATES MAGISTRATE JUDGE