

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

4 In the present case, the Court does not find the required exceptional circumstances. Plaintiff is
5 proceeding on a claim of excessive force and the legal issues present in this action are not complex,
6 and Plaintiff has thoroughly set forth his allegations in the complaint. Even if it assumed that Plaintiff
7 is not well versed in the law and that he has made serious allegations which, if proved, would entitle
8 him to relief, his case is not exceptional. The Court is faced with similar cases almost daily. While
9 the Court recognizes that Plaintiff is at a disadvantage due to his pro se status and his incarceration,
10 the test is not whether Plaintiff would benefit from the appointment of counsel. See Wilborn v.
11 Escalderon, 789 F.2d 1328, 1331 (9th Cir. 1986) (“Most actions require development of further facts
12 during litigation and a pro se litigant will seldom be in a position to investigate easily the facts
13 necessary to support the case.”) The test is whether exception circumstances exist and here, they do
14 not. While a pro se litigant may be better served with the assistance of counsel, so long as a pro se
15 litigant, such as Plaintiff in this instance, is able to “articulate his claims against the relative
16 complexity of the matter,” the “exceptional circumstances” which might require the appointment of
17 counsel do not exist. Rand v. Rowland, 113 F.3d at 1525 (finding no abuse of discretion under 28
18 U.S.C. § 1915(e) when district court denied appointment of counsel despite fact that pro se prisoner
19 “may well have fared better-particularly in the realm of discovery and the securing of expert
20 testimony.”) Although this case is currently set for jury trial, that fact, alone, does not entitle Plaintiff
21 to appointment of counsel. Accordingly, Plaintiff’s fourth motion for the appointment of counsel shall
22 be denied, without prejudice.

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Based on the foregoing, it is HEREBY ORDERED that Plaintiff's fourth motion for appointment of counsel is denied, without prejudice.

IT IS SO ORDERED.

Dated: June 3, 2022



UNITED STATES MAGISTRATE JUDGE