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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

EDWARD ANTONIO BATTISTE,

Plaintiff, No. CIV S-09-2053 GGH P

vs.

B. VELASQUEZ, et al.,

Defendants. ORDER

Plaintiff has requested the appointment of counsel. The United States Supreme Court has ruled that district courts lack authority to require counsel to represent indigent prisoners in § 1983 cases. Mallard v. United States Dist. Court, 490 U.S. 296, 298 (1989). In certain exceptional circumstances, the court may request the voluntary assistance of counsel pursuant to 28 U.S.C. § 1915(e)(1). Terrell v. Brewer, 935 F.2d 1015, 1017 (9th Cir. 1991); Wood v. Housewright, 900 F.2d 1332, 1335-36 (9th Cir. 1990). In the present case, the court does not yet find the required exceptional circumstances. This order is made without prejudice to a later request which may be based on documents produced during discovery. Plaintiff's motion for the appointment of counsel will therefore be presently denied.

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1 Accordingly, IT IS HEREBY ORDERED that plaintiff's August 31, 2009 motion
2 for the appointment of counsel (Docket No. 10) is denied.

3 DATED: September 14, 2009

4 /s/ Gregory G. Hollows

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 GREGORY G. HOLLOWS
6 UNITED STATES MAGISTRATE JUDGE

7 GGH:mp
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