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

10 EDWARD ANTONIO BATTISTE,

11 Plaintiff,

No. CIV S-09-2053 GGH P

12 vs.

13 B. VELASQUEZ, et al.,

14 Defendants.

ORDER

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

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

DATED: September 14, 2009

/s/ Gregory G. Hollows

GREGORY G. HOLLOWS
UNITED STATES MAGISTRATE JUDGE

GGH:mp
batt2053.31