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

EDWARD ANTONIO BATISTE,

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 at this stage find the required exceptional circumstances. Plaintiff's requests for the appointment of counsel will therefore be denied but without prejudice, as set forth below.

Accordingly, IT IS HEREBY ORDERED that plaintiff's September 28, 2009 (docket # 16), and October 6, 2009 (docket # 17), requests for the appointment of counsel are denied without prejudice, pending resolution of any motion that may be brought by defendants

1 regarding the question of administrative exhaustion of claims.

2 DATED: October 16, 2009

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/s/ Gregory G. Hollows

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GREGORY G. HOLLOWS
UNITED STATES MAGISTRATE JUDGE

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