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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

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Theodore Jacob Jones,

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No. CV-12-435-PHX-SRB (LOA)

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Plaintiff,

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ORDER

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vs.

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CO II Forbes, et al.,

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Defendant.

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This matter is before the Court on Plaintiff’s Motion for Order re Service, doc. 33, and Plaintiff’s Motion to Appoint Counsel, doc. 34.

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I. Background

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Plaintiff filed a *pro se* Prisoner Civil Rights Complaint on March 1, 2012, doc. 1, and a First Amended Complaint, doc. 9, on May 3, 2012. After the mandatory screening process pursuant to 28 U.S.C. § 1915(A)(a), Defendants Forbes and Sanchez were ordered to answer the amended complaint. (Doc. 11) Defendant Sanchez was served on August 22, 2012. (Doc. 26)

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On September 14, 2012, the Court ordered Defendant Sanchez to provide Plaintiff with the last know address for Defendant Forbes. (Doc. 30) On September 28, 2012, Defendant filed a Notice of Compliance with the above-mentioned order. (Doc. 32) Thereafter, on October 10, 2012, Plaintiff filed a Motion for Order re: Service Address. (Doc. 33) Additionally, on October 10, 2012, Plaintiff filed a Motion to Appoint Counsel.

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1 (Doc. 34)

2 **II. Discussion**

3 **A. Motion for Order re: Service**

4 Plaintiff alleges that Defendant's attempt to provide notice of a proper address was
5 inadequate because Defendant provided a Post Office Box through which Plaintiff cannot
6 effectuate proper service. Plaintiff further states, however, that the provided the United
7 States Marshal Service ("USMS") Defendant's current employment address, but that the
8 Marshal's Service has not responded to Plaintiff's letters nor have they informed him
9 whether Defendant Forbes has been served. (Doc. 33 at 2) Plaintiff does not state the date
10 on which he provided the USMS with the new address for Defendant Forbes. However, the
11 docket indicates that the service packet for Defendant Forbes was forwarded to the USMS
12 on October 1, 2012.

13 Ultimately, it is Plaintiff's responsibility to provide the proper address for the
14 Defendant in order to effectuate service. *Toscana v. Cambra*, 2003 WL 21432919, at *1
15 (N.D. Cal. June 10, 2003). It is not the Court's role or responsibility to track down the
16 addresses of the defendants. The Court has taken many steps to help facilitate Plaintiff's
17 efforts in attempting to serve Defendant Forbes, including providing multiple blank
18 subpoenas. It is premature at this point for Plaintiff to move for an order to effectuate
19 adequate service. If Plaintiff cannot provide the USMS with an appropriate address as to
20 where to serve Defendant Forbes, the Court can do little more at this juncture. Therefore,
21 the Court will deny this motion without prejudice.

22 **B. Motion for Appointment of Counsel**

23 Plaintiff's Motion for Appointment of Counsel, doc. 34, will similarly be denied
24 without prejudice. Plaintiff's motion is written by another inmate who contends that Plaintiff
25 is unable to effectively and efficiently write it on his own. (Doc. 34 at 1) This person states
26 that he has been helping Plaintiff since August 2012, but that he will soon no longer be
27 available; but, he requests that Plaintiff have counsel appointed because Plaintiff is mentally
28 unable to help himself. (*Id.* at 2) A copy of a neuropsychological report that has not been

1 admitted into evidence was attached. Finally, this person states that Plaintiff was unhappy
2 with the on-site paralegal services and that Plaintiff will refuse those services indefinitely.

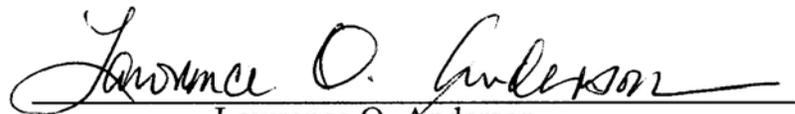
3 There is no constitutional right to appointment of counsel in a civil case. *Johnson v.*
4 *U.S. Dep't. of Treasury*, 939 F.2d 820, 824 (9th Cir. 1991). Appointment of counsel in a civil
5 rights case is required only when exceptional circumstances are present. *Terrell v. Brewer*,
6 935 F.2d 1015, 1017 (9th Cir. 1991) (citing *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th
7 Cir.1986)). In determining whether to appoint counsel, the court should consider the
8 likelihood of success on the merits, and the ability of plaintiff to articulate his claims in view
9 of their complexity. *Wood v. Housewright*, 900 F.2d 1332, 1335 (9th Cir. 1990). Plaintiff has
10 not demonstrated a likelihood of success on the merits, nor has he shown that he is
11 experiencing difficulty in litigating this case because of the complexity of the issues
12 involved. The Court will deny Plaintiff's Motion to Appoint Counsel because no exceptional
13 circumstances exist in this case. The Court may revisit the issue, if appropriate, at a later
14 date.

15 Accordingly,

16 **IT IS ORDERED** that Plaintiff's Motion for Order re: Service, doc. 33, is **DENIED**.

17 **IT IS FURTHER ORDERED** that Plaintiff's Motion to Appoint Counsel, doc. 34
18 is **DENIED**.

19 Dated this 24th day of October, 2012.

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22 Lawrence O. Anderson
23 United States Magistrate Judge
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