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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Joseph Gerald Lee Eldridge,

No. CV14-01325-DGC (ESW)

10 Plaintiff,

ORDER

11 v.

12 JD Schroeder,

13 Defendants.

14 Pending before the Court is Plaintiff's Motion for Appointment of Counsel (Doc.
15 24). Plaintiff asserts that his case is complex, his ability to litigate is limited by his
16 incarceration and hospitalization, credibility will be an issue regarding the witnesses,
17 Plaintiff is indigent, Plaintiff is not trained in the law, Plaintiff has a seizure disorder, and
18 Plaintiff needs assistance with expert witnesses.

19 There is no constitutional right to the appointment of counsel in a civil case. *See*
20 *Johnson v. U.S. Dep't of Treasury*, 939 F.2d 820, 824 (9th Cir. 1991); *Ivey v. Bd of*
21 *Regents of the Univ. of Alaska*, 673 F.2d 266, 269 (9th Cir. 1982). "However, a court
22 may under 'exceptional circumstances' appoint counsel for indigent civil litigants
23 pursuant to 28 U.S.C. § 1915(e)(1)." *Palmer v. Valdez*, 560 F.3d 965, 970 (9th Cir.
24 2009) (quoting *Agyeman v. Coors. Corp. of Am.*, 390 F.3d 1101, 1103 (9th Cir. 2004)).
25 "When determining whether 'exceptional circumstances' exist, a court must consider 'the
26 likelihood of success on the merits as well as the ability of the [plaintiff] to articulate his
27 claims *pro se* in light of the complexity of the legal issues involved.'" *Palmer*, 560 F.3d
28 at 970 (quoting *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983)). *See also Terrell v.*

1 *Brewer*, 935 F.2d 1015, 1017 (9th Cir. 1991). “Neither of these considerations is
2 dispositive and instead must be viewed together.” *Palmer*, 560 F.3d at 970 (citing
3 *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986)).

4 Having considered both elements, Plaintiff has not shown that exceptional
5 circumstances are present that would require the appointment of counsel in this case.
6 Plaintiff has not demonstrated a likelihood of success on the merits, nor has he shown
7 that he is experiencing difficulty in litigating this case because of the complexity of the
8 issues involved. Plaintiff’s filings with the Court, as well as the instant motion, indicate
9 that Plaintiff is capable of navigating his proceedings and presenting arguments to the
10 Court. *See Wilborn*, 789 F.2d at 1331 (“If all that was required to establish successfully
11 the complexity of the relevant issues was a demonstration of the need for development of
12 further facts, practically all cases would involve complex legal issues.”). Plaintiff is in no
13 different position than many *pro se* prisoner litigants. Having failed to show that
14 exceptional circumstances are present, Plaintiff’s request for appointment of counsel will
15 be denied. Accordingly,

16 IT IS ORDERED that Plaintiff’s Motion for Appointment of Counsel (Doc. 24) is
17 denied.

18 Dated this 22nd day of April, 2015.

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22 _____
23 Honorable Eileen S. Willett
24 United States Magistrate Judge
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