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

10 Plaintiff,

11 v.

12 JD Schroeder,

13 Defendant.
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No. CV-14-01325-PHX-DGC (ESW)

ORDER

15 Pending before the Court is Plaintiff's Motion for Appointment of Counsel (Doc.
16 40). Plaintiff is incarcerated in the Arizona State Prison Complex-Lewis and has filed a
17 civil rights First Amended Complaint (Doc. 21) pursuant to 42 U.S.C. § 1983. Plaintiff
18 requests the appointment of counsel for the following reasons: (1) the Plaintiff is trying
19 to serve the defendant and is unable to locate him; (2) the Plaintiff is unable to afford
20 counsel, (3) the Plaintiff needs to depose witnesses to perpetuate their testimony; (4) the
21 Plaintiff has limited library access and education; and (5) the Plaintiff is unfamiliar with
22 the Federal Rules of Civil Procedure.

23 There is no constitutional right to the appointment of counsel in a civil case. *See*
24 *Johnson v. U.S. Dep't of Treasury*, 939 F.2d 820, 824 (9th Cir. 1991); *Ivey v. Bd of*
25 *Regents of the Univ. of Alaska*, 673 F.2d 266, 269 (9th Cir. 1982). "However, a court
26 may under 'exceptional circumstances' appoint counsel for indigent civil litigants
27 pursuant to 28 U.S.C. § 1915(e)(1)." *Palmer v. Valdez*, 560 F.3d 965, 970 (9th Cir.
28 2009) (quoting *Agyeman v. Coors. Corp. of Am.*, 390 F.3d 1101, 1103 (9th Cir. 2004)).

1 “When determining whether ‘exceptional circumstances’ exist, a court must consider ‘the
2 likelihood of success on the merits as well as the ability of the [plaintiff] to articulate his
3 claims *pro se* in light of the complexity of the legal issues involved.’” *Palmer*, 560 F.3d
4 at 970 (quoting *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983)). *See also Terrell v.*
5 *Brewer*, 935 F.2d 1015, 1017 (9th Cir. 1991). “Neither of these considerations is
6 dispositive and instead must be viewed together.” *Palmer*, 560 F.3d at 970 (citing
7 *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986)).

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

20 IT IS ORDERED that Plaintiff’s Motion for the Appointment of Counsel (Doc.
21 40) is denied.

22 Dated this 2nd day of December, 2015.

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26 Honorable Eileen S. Willett
27 United States Magistrate Judge
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