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

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Fresno Division

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10 Lonnie Lee Manuel)

No. CIV 1:07-0968-NVW

11 Plaintiff,)

12 vs.)

ORDER

13 K. Mandoza Powers, et al.,)

14 Defendants.)

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16 This matter arises on Plaintiff's Request to Court for Attorney. (Doc. # 26.) Plaintiff
17 requests that the court appoint counsel because he lacks legal training, cannot afford counsel.
18 He acknowledges he was paroled on August 8, 2009.

19 There is no constitutional right to appointment of counsel in a civil case. *See Johnson*
20 *v. Dep't of Treasury*, 939 F.2d 820, 824 (9th Cir. 1991). Appointment of counsel in a civil rights
21 case is required only when exceptional circumstances are present. *Terrell v. Brewer*, 935 F.2d
22 1015, 1017 (9th Cir. 1991) (citing *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986)).
23 In determining whether to appoint counsel, the court should consider the likelihood of success
24 on the merits, and the ability of plaintiff to articulate his claims in view of their complexity.
25 *Wood v. Housewright*, 900 F.2d 1332, 1335 (9th Cir. 1990).


26 Plaintiff has not demonstrated a likelihood of success on the merits, nor has he shown
27 that he is experiencing difficulty in litigating this case because of the complexity of the issues
28 involved. Plaintiff does not even discuss what efforts, if any, he has made to comply with the

1 Further Scheduling Order filed July 16, 2009. Rather, Plaintiff filed this motion on September
2 25, 2009, the day that he was required to file his pretrial statement. No such pretrial statement
3 has been filed. After reviewing the file, the Court determines that this case does not present
4 exceptional circumstances requiring the appointment of counsel. Plaintiff has simply neglected
5 his duties until the expiration of the time to meet them.

6 **IT IS THEREFORE ORDERED** that Plaintiff's Request to Court for Attorney (Doc.
7 # 26) is denied.

8 **IT IS FURTHER ORDERED** that Plaintiff show cause by October 9, 2009, why this
9 action should not be dismissed pursuant to Fed. R. Civ. P. 41(b) for failure to comply with the
10 rules of the court and the Further Scheduling Order filed July 16, 2009 (Doc. # 23.)

11 DATED this 28th day of September, 2009.

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16 Neil V. Wake
17 United States District Judge
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