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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION**

DORIAN DAVIS aka
WALI AL-TAQI,
CDCR #K-78041,

Plaintiff,

vs.

E.G. FLORES; J. CASTRO; T.
BILLINGS; A. HEDGPETH;
R. MARTA,

Defendants.

Civil No. 08-1197 JTM (JMA)

**ORDER DENYING PLAINTIFF'S
MOTION TO APPOINT COUNSEL**

[Doc. No. 12]

I.

PROCEDURAL HISTORY

On August 15, 2008, Plaintiff, an inmate currently incarcerated at Kern Valley State Prison located in Delano, California and proceeding pro se, filed a civil rights Complaint pursuant to 42 U.S.C. § 1983. Plaintiff has not prepaid the \$350 filing fee mandated by 28 U.S.C. § 1914(a) to commence a civil action; instead, he filed a Motion to Proceed *In Forma Pauperis* ("IFP") pursuant to 28 U.S.C. § 1915(a) [Doc. No. 2].

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1 The Court granted Plaintiff’s Motion to Proceed *IFP* on August 21, 2008 [Doc. No. 4]. On
2 November 26, 2008, this matter was reassigned to District Judge Jeffrey Miller for all further proceedings
3 [Doc. No. 8]. The Court conducted a sua sponte screening of Plaintiff’s Complaint and directed the
4 United States Marshal to effect service of Plaintiff’s Complaint on December 29, 2008. Plaintiff filed a
5 “Motion to Appoint Counsel” on February 2, 2009 [Doc. No. 12].

6 **II.**

7 **MOTION TO APPOINT COUNSEL**

8 “There is no constitutional right to appointed counsel in a § 1983 action.” *Rand v. Rowland*, 113
9 F.3d 1520, 1525 (9th Cir. 1997) (citing *Storseth v. Spellman*, 654 F.2d 1349, 1353 (9th Cir. 1981)); *see*
10 *also Hedges v. Resolution Trust Corp. (In re Hedges)*, 32 F.3d 1360, 1363 (9th Cir. 1994) (“[T]here is
11 no absolute right to counsel in civil proceedings.”) (citation omitted). Thus, federal courts do not have
12 the authority “to make coercive appointments of counsel.” *Mallard v. United States District Court*, 490
13 U.S. 296, 310 (1989); *see also United States v. \$292,888.04 in U.S. Currency*, 54 F.3d 564, 569 (9th
14 Cir. 1995).

15 Districts courts have discretion, however, pursuant to 28 U.S.C. § 1915(e)(1), to “request” that
16 an attorney represent indigent civil litigants upon a showing of “exceptional circumstances.” *See*
17 *Agyeman v. Corrections Corp. of America*, 390 F.3d 1101, 1103 (9th Cir. 2004); *Rand*, 113 F.3d at
18 1525. “A finding of the exceptional circumstances of the plaintiff seeking assistance requires at least an
19 evaluation of the likelihood of the plaintiff’s success on the merits and an evaluation of the plaintiff’s
20 ability to articulate his claims ‘in light of the complexity of the legal issues involved.’” *Agyeman*, 390 F.3d
21 at 1103 (quoting *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986)); *see also Terrell v.*
22 *Brewer*, 935 F.2d 1015, 1017 (9th Cir. 1991).

23 The Court agrees that any pro se litigant “would be better served with the assistance of counsel.”
24 *Rand*, 113 F.3d at 1525 (citing *Wilborn*, 789 F.2d at 1331). However, so long as a pro se litigant, like
25 Plaintiff in this case, is able to “articulate his claims against the relative complexity of the matter,” the
26 “exceptional circumstances” which might *require* the appointment of counsel do not exist. *Id.* (finding
27 no abuse of discretion under 28 U.S.C. § 1915(e) when district court denied appointment of counsel
28 despite fact that pro se prisoner “may well have fared better-particularly in the realms of discovery and


1 the securing of expert testimony.”). The Court finds that neither the interests of justice nor
2 exceptional circumstances warrant appointment of counsel at this time. *LaMere v. Risley*, 827 F.2d 622,
3 626 (9th Cir. 1987); *Terrell*, 935 F.2d at 1017. For these reasons, the Court finds Plaintiff’s Motion for
4 Appointment of Counsel must be denied.

5 **III.**

6 **CONCLUSION AND ORDER**

7 Good cause appearing, **IT IS HEREBY ORDERED** that:
8 Plaintiff’s Motion to Appoint Counsel [Doc. No. 12] is **DENIED** without prejudice.

9
10 DATED: February 13, 2009

11 
12 Hon. Jeffrey T. Miller
United States District Judge