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6	IN THE UNITED STATES DISTRICT COURT	
7	FOR THE EASTERN DISTRICT OF CALIFORNIA	
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9	Greg Acosta,) No. CV 1-08-1238-GMS
10	Plaintiff,) ORDER
11	VS.)
12	S. Suryadevara,)
13	Defendant.	
14)
15	Pending before the Court are Plaintiff's Motion for Clarification (Dkt. # 44) and	
16	Motion to Appoint Counsel (Dkt. #45). Plaintiff requests clarification of the unsigned order	
17	he received from Defendant along with the Motion for Summary Judgment and status of his	
18	case. The order is a proposed form order submitted to the Court by Defendant that Defendant	
19	proposes that the Court sign if it grants Defendant's Motion for Summary Judgment. The	
20	Motion for Summary Judgment is pending and the Court will rule on the Motion in due	
21	course once it is fully briefed.	
22	Plaintiff requests the Court to appoint him counsel. There is no constitutional right	
23	to appointed counsel in a civil case. See Ivey v. Bd. of Regents of Univ. of Alaska, 673 F.2d	
24	266, 269 (9th Cir. 1982). The Court, however, does have the discretion to appoint counsel	
25	in "exceptional circumstances." See 28 U.S.C. § 1915(e)(1); Wilborn v. Escalderon, 789	
26	F.2d 1328, 1331 (9th Cir. 1986); Aldabe v. Aldabe, 616 F.2d 1089, 1093 (9th Cir. 1980). "A	
27	finding of exceptional circumstances requires an evaluation of both 'the likelihood of success	
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on the merits and the ability of the petitioner to articulate his or her claim *pro se* in light of
the complexity of the legal issues involved." *Wilborn*, 789 F.2d at 1331(quoting *Weygant v. Look*, 718 F.2d 952, 954 (9th Cir. 1983)); *see Richards v. Harper*, 864 F.2d 85, 87 (9th
Cir. 1988). "Neither of these factors is dispositive and both must be viewed together before
reaching a decision on request of counsel" under section 1915(e)(1). *Wilborn*, 789 F.2d at
1331.

Having considered both factors, the Court finds that Plaintiff has not demonstrated a
likelihood of success on the merits or that any difficulty he is experiencing in attempting to
litigate his case is due to the complexity of the issues involved. While Plaintiff has pointed
to financial difficulties that he is experiencing, such difficulties do not make his case
exceptional. Accordingly, at the present time, this case does not present "exceptional
circumstances" requiring the appointment of counsel. Accordingly,

IT IS HEREBY ORDERED granting the Motion for Clarification (Dkt. # 44). **IT IS FURTHER ORDERED** denying the Motion to Appoint Counsel (Dkt. # 45).

DATED this 24th day of May, 2010.

A. Munay Su

United States District Judge