

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

TONY EDWARD POWELL,

Plaintiff,

vs.

MADDEN, *et al.*,

Defendants.

Case No. 1:13-cv-00057-RRB

**ORDER DENYING  
MOTION AT DOCKET 35**

At **Docket 35** Plaintiff Tony Edward Powell, a federal prisoner appearing *pro se*, filed a motion to appoint counsel. Generally, a prisoner has no right to counsel in civil actions.<sup>1</sup> “However, a court may under exceptional circumstances appoint counsel for indigent civil litigants pursuant to 28 U.S.C. § 1915(e)(1). When determining whether exceptional circumstances exist, a court must consider the likelihood of success on the merits as well as the ability of the petitioner to articulate his claims *pro se* in light of the complexity of the legal issues involved. Neither of these considerations is dispositive and instead must be viewed together.”<sup>2</sup>

Despite Powell’s efforts to expand the scope of this case, it remains a simple slip and fall case coupled with a claim of deliberate indifference with respect to the medical

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<sup>1</sup> See *Storseth v. Spellman*, 654 F.2d 1349, 1353 (9th Cir. 1981) (holding that there is no constitutional right to appointed counsel for § 1983 claims).

<sup>2</sup> *Palmer v. Valdez*, 560 F.3d 965, 970 (9th Cir. 2009) (citations and internal quotation marks omitted).

treatment he received thereafter. These are primarily fact-driven issues that do not involve intricate or complicated questions of law. The availability of *pro bono* counsel to represent indigent prisoners is limited. While this Court is not unmindful of the value of the assistance of counsel, both to Plaintiff and the Court itself, this is not a case in which it is necessary to appoint counsel.

Accordingly, the Petition for Leave, Seeking an Order and Directions to Appoint Counsel at Docket 35 is **DENIED**.

**IT IS SO ORDERED** this 12<sup>th</sup> day of February, 2014.

S/ RALPH R. BEISTLINE  
UNITED STATES DISTRICT JUDGE