

**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

EUGENE FORTE,

Plaintiff,

V.

PATTERSON PD CHIEF TORI HUGHES,  
et al..

## Defendants.

Case No. 1:13-cv-01980-LJO-SMS

**ORDER DENYING PLAINTIFF'S  
REQUEST FOR APPOINTMENT  
OF COUNSEL**

(Doc. 12, in part)

Plaintiff Eugene Forte, proceeding *pro se* and *in forma pauperis*, has filed a motion in which he both objects to the initial screening of his complaint and requests appointment of counsel. In an *ex parte* communication with the Court, Plaintiff has indicated that he has postponed action with regard to other cases pending before this Court until it appoints counsel for him. Accordingly, this order addresses Plaintiff's motion for appointment of counsel separately from the balance of his motion regarding the screening of his complaint, which will be addressed by a separate order in the ordinary course of the Court's business.

Generally, a person has no right to counsel in civil actions. *Storseth v. Spellman*, 654 F.2d 1349, 1353 (9<sup>th</sup> Cir. 1981). In exceptional circumstances, a court may request counsel to voluntarily assist any person unable to afford counsel. 28 U.S.C. § 1915(e)(1). Without a reasonable method of securing and compensating counsel, however, the Court will seek volunteer counsel in only the most

1 serious and exceptional cases. *Agyeman v. Corrections Corp. of Amer.*, 390 F.3d 1101, 1103 (9<sup>th</sup>  
2 Cir. 2004), *cert. denied sub nom, Gerber v. Agyeman*, 545 U.S. 1128 (2005).

3 To determine whether exceptional circumstances exist, a court must consider "the likelihood  
4 of success on the merits as well as the ability of the petitioner to articulate his claims *pro se* in light  
5 of the complexity of the legal issues involved." *Weygandt v. Look*, 718 F.2d 952, 954 (9<sup>th</sup> Cir.  
6 1983). Because neither element is dispositive, a court must consider both factors. *Wilborn v.*  
7 *Escalderon*, 789 F.2d 1328, 1331 (9<sup>th</sup> Cir. 1986). In the absence of exceptional circumstances, a  
8 court does not abuse its discretion in declining to appoint counsel for an indigent civil litigant.  
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10 *Palmer v. Valdez*, 560 F.3d 965, 970 (9<sup>th</sup> Cir. 2009).

11 As is the case with every litigant, Plaintiff's case is important to him. That is not the measure  
12 of an exceptional case. Numerous cases alleging the use of excessive force are filed in this Court  
13 annually. Objectively evaluated, Plaintiff's case is no different from those cases. Nor is its success  
14 more or less likely than those similar cases. Further, as Plaintiff himself would admit, his extensive  
15 litigation experience, higher education, and experience as a businessman render him far more able to  
16 articulate his case than the average *pro se* litigant. Accordingly, the Court does not find exceptional  
17 circumstances requiring appointment of counsel.  
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19 Plaintiff's motion for appointment of counsel is DENIED.  
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22 IT IS SO ORDERED.  
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24 Dated: April 23, 2014

25 /s/ Sandra M. Snyder  
26 UNITED STATES MAGISTRATE JUDGE  
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