

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

MARIO DULANEY,) Case No. 1:14-cv-1051-LJO-BAM
Plaintiff,)
v.) ORDER DENYING REQUEST FOR
JERRY DYER, FRESNO POLICE) APPOINTMENT OF COUNSEL
DEPARTMENT, FRESNO POLICE)
OFFICER RICHARD BADILLA, FRESNO)
POLICE OFFICER MATHEW SILVER)
Defendant.) (ECF No. 7)

Plaintiff Mario Dulaney (“Plaintiff”) appears to be a pretrial detainee proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. On October 24, 2014, Plaintiff filed a motion for appointment of counsel. Plaintiff claims that he is incarcerated, and that the issues in the case are complicated.

Plaintiff does not have a constitutional right to the appointment of counsel in this action. *Palmer v. Valdez*, 560 F.3d 965, 970 (9th Cir. 2009); *Storseth v. Spellman*, 654 F.2d 1349, 1353 (9th Cir. 1981). The Court may request the voluntary assistance of counsel pursuant to 28 U.S.C. § 1915(e)(1), but it will do so only if exceptional circumstances exist. *Palmer*, 560 F.3d at 970; *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986). In making this determination, the Court must evaluate the likelihood of success on the merits and the ability of Plaintiff to articulate his claims pro se in light of the complexity of the legal issues involved. *Palmer*, 560 F.3d at 970 (citation and quotation marks omitted); *Wilborn*, 789 F.2d at 1331.

1 Neither consideration is dispositive and they must be viewed together. *Palmer*, 560 F.3d at 970
2 (citation and quotation marks omitted); *Wilborn*, 789 F.2d at 1331.

3 In the present case, the Court does not find the required exceptional circumstances. Even
4 if it is assumed that Plaintiff is not well versed in the law and that he has made serious
5 allegations which, if proved, would entitle him to relief, his case is not exceptional. The Court is
6 faced with similar cases almost daily. Further, the Court has dismissed his complaint with leave
7 to amend and no claims are currently pending. Therefore, Plaintiff's request for the appointment
8 of counsel is HEREBY DENIED without prejudice.

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10 IT IS SO ORDERED.

11 Dated: January 21, 2015

12 /s/ Barbara A. McAuliffe

13 UNITED STATES MAGISTRATE JUDGE

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