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5 **UNITED STATES DISTRICT COURT**

6 EASTERN DISTRICT OF CALIFORNIA
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9 MARIO DULANEY,) Case No. 1:14-cv-1051-LJO-BAM
10 Plaintiff,)
11 v.) ORDER DENYING REQUEST FOR
12) APPOINTMENT OF COUNSEL
13) (ECF No. 7)
14 JERRY DYER, FRESNO POLICE)
15 DEPARTMENT, FRESNO POLICE)
OFFICER RICHARD BADILLA, FRESNO)
POLICE OFFICER MATHEW SILVER)
Defendant.)

16 Plaintiff Mario Dulaney (“Plaintiff”) appears to be a pretrial detainee proceeding pro se
17 and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. On October 24,
18 2014, Plaintiff filed a motion for appointment of counsel. Plaintiff claims that he is incarcerated,
19 and that the issues in the case are complicated.

20 Plaintiff does not have a constitutional right to the appointment of counsel in this action.
21 *Palmer v. Valdez*, 560 F.3d 965, 970 (9th Cir. 2009); *Storseth v. Spellman*, 654 F.2d 1349, 1353
22 (9th Cir. 1981). The Court may request the voluntary assistance of counsel pursuant to 28
23 U.S.C. § 1915(e)(1), but it will do so only if exceptional circumstances exist. *Palmer*, 560 F.3d
24 at 970; *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986). In making this
25 determination, the Court must evaluate the likelihood of success on the merits and the ability of
26 Plaintiff to articulate his claims pro se in light of the complexity of the legal issues involved.
27 *Palmer*, 560 F.3d at 970 (citation and quotation marks omitted); *Wilborn*, 789 F.2d at 1331.
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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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