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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

EDWARD DAVID JONES, JR.,)	Case No. 1:16-cv-00469-DAD-BAM
)	
Plaintiff,)	ORDER DENYING REQUEST FOR
)	APPOINTMENT OF COUNSEL
v.)	
)	(Doc. 7)
SCHWARZENEGGER, et al.,)	
)	
Defendants.)	
)	
)	
)	

Plaintiff Edward David Jones, Jr. (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil action filed on April 4, 2016. On July 15, 2016, Plaintiff filed a motion for appointment of counsel. Plaintiff seeks counsel on the ground that he is not an experienced jailhouse lawyer, he has limited education experience, and the case may raise complex legal and factual issues, along with issues of credibility. He also cites the limitations of his incarceration. Doc. 7.

Plaintiff does not have a constitutional right to the appointment of counsel in this civil 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.

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

4 In the present case, the Court does not find the required exceptional circumstances. Even
5 if it is assumed that Plaintiff is not well versed in the law and that he has made serious
6 allegations which, if proved, would entitle him to relief, his case is not exceptional. The Court is
7 faced with similar cases almost daily from incarcerated prisoners. Further, the Court cannot find
8 a likelihood of success on the merits at this time. Plaintiff's complaint has been dismissed for
9 failure to state a claim. Although Plaintiff has been granted leave to amend, there is no operative
10 complaint currently on file with the Court. Therefore, Plaintiff's request for the appointment of
11 counsel is HEREBY DENIED without prejudice.

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13 IT IS SO ORDERED.

14 Dated: July 7, 2016

15 /s/ Barbara A. McAuliffe
16 UNITED STATES MAGISTRATE JUDGE
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