

THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

OSCAR ARREOLA,)	CIVIL NO. 2:08-00805 JMS
)	
Plaintiff,)	ORDER DENYING PLAINTIFF’S
)	MOTION TO APPOINT COUNSEL
vs.)	
)	
G. DUDLEY,)	
)	
Defendant.)	
)	

ORDER DENYING PLAINTIFF’S MOTION TO APPOINT COUNSEL

On April 15, 2008, pro se Plaintiff Oscar Arreola (“Plaintiff”) filed this civil rights action pursuant to 42 U.S.C. § 1983. On June 21, 2010, Plaintiff filed a Motion to Appoint Counsel (“Plaintiff’s Motion”) arguing that he is indigent and requires assistance of counsel.

The court lacks authority to require counsel to represent indigent prisoners in 42 U.S.C. § 1983 cases. *Mallard v. U.S. Dist. Court for S. Dist. of Iowa*, 490 U.S. 296, 298 (1989). In certain exceptional circumstances, the district court may request the voluntary assistance of counsel pursuant to 28 U.S.C. § 1915(e)(1). *Terrell v. Brewer*, 935 F.2d 1015, 1017 (9th Cir. 1991); *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986). “A finding of exceptional circumstances requires an evaluation of both the likelihood of success on the merits

[and] the ability of the petitioner to articulate his claims *pro se* in light of the complexity of the legal issues involved.” *Terrell*, 935 F.2d at 1017 (*citing Wilborn v. Escalderon*, 789 F.2d 1328 (9th Cir. 1986)). Neither of these factors is dispositive, and both must be viewed together before reaching a decision on request for counsel under § 1915. *Id.*; *United States v. \$292,888.04 in U.S. Currency*, 54 F.3d 564, 569 (9th Cir. 1995).

Here, Plaintiff has not established that he faces exceptional circumstances. This matter does not present matters that are so complex, either factually or legally, as to require counsel to adequately litigate them. Plaintiff appears literate, speaks English, and has articulated his claims adequately. Accordingly, the court DENIES Plaintiff’s Motion.

IT IS SO ORDERED.

DATED: Honolulu, Hawaii, June 29, 2010.



/s/ J. Michael Seabright

J. Michael Seabright
United States District Judge

Arreola v. Dudley, Civ. No. 2:08-00805 JMS, Order Denying Plaintiff’s Motion to Appoint Counsel