

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JESSE BEJARAN,)	No. CIV. S-08-00817 DAE
)	
Plaintiff,)	
)	
vs.)	
)	
RUIZ; RODRIGUES; HUGHES;)	
STREET; MAYES; LOILER;)	
HUESEL; FRANCO; CARDOZA;)	
MENDOZA; BRAGA, et al.)	
Individually and in their Official)	
Capacities,)	
)	
Defendants.)	
_____)	

ORDER DENYING PLAINTIFF’S MOTION FOR
APPOINTMENT OF COUNSEL

On April 14, 2008, pro se Plaintiff Jesse E. Bejaran, Jr., a prisoner incarcerated at California State Prison, located in Corcoran, California, filed a prisoner civil rights complaint and an application to proceed *in forma pauperis*. (Doc. ## 1 & 2.) The Court granted the *in forma pauperis* application on January 8, 2009. (Doc. # 6.)

On July 29, 2009, the Court dismissed Plaintiff's Complaint in part, and granted Plaintiff 30 days to file an Amended Complaint. (Doc. # 37.) On August 14, 2009, Plaintiff filed an Amended Complaint. (Doc. # 39.) Plaintiff brings his claim pursuant to 42 U.S.C. § 1983. Also on August 14, 2009, Plaintiff filed the instant amended Motion for Appointment of Counsel. (Doc. # 40.)

The Constitution provides no right to appointment of counsel in a civil case unless a litigant may lose his physical liberty if he loses the litigation.

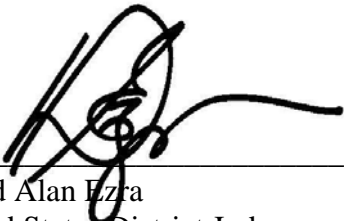
Lassiter v. Dept. Social Services, 452 U.S. 18, 25 (1981). District courts are granted discretion to appoint counsel, but this discretion is generally exercised only in "exceptional circumstances." Terrell v. Brewer, 935 F.2d 1015, 1017 (9th Cir. 1991); see 28 U.S.C. § 1915(e)(1). "A finding of exceptional circumstances requires an evaluation of both the 'likelihood of success on the merits and ability of the plaintiff to articulate his claims pro se in light of the complexity of the legal issues involved.' Neither of these issues is dispositive and both must be viewed together before reaching a decision." Terrell, 935 F.2d at 1017 (citations omitted).

To date, Plaintiff has been able to present his claims against Defendants in an adequate manner in both the Complaint and Amended

Complaint, and there are no exceptional circumstances warranting appointment of counsel at this time.

DATED: Honolulu, Hawaii, October 15, 2009.





David Alan Ezra
United States District Judge

Bejaran v. Ruiz, et al., No. CIV. S-08-00817 DAE; ORDER DENYING
PLAINTIFF'S MOTION FOR APPOINTMENT OF COUNSEL