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

ANTHONY R. TURNER,

Plaintiff,

No. 2: 10-cv-1848 MCE KJN P

vs.

WARDEN SALINAS, et al.,

Defendants.

ORDER

_____ /

Plaintiff is a state prisoner, proceeding without counsel and in forma pauperis, in this civil rights action filed pursuant to 42 U.S.C. § 1983. Pending before the court is plaintiff’s motion for appointment of counsel filed January 30, 2012.

“In proceedings in forma pauperis, the district court ‘may request an attorney to represent any person unable to afford counsel.’ 28 U.S.C. § 1915(e)(1). The decision to appoint such counsel is within ‘the sound discretion of the trial court and is granted only in exceptional circumstances.’ Franklin v. Murphy, 745 F.2d 1221, 1236 (9th Cir. 1984). A finding of the exceptional circumstances of the plaintiff seeking assistance requires at least an evaluation of the likelihood of the plaintiff’s success on the merits and an evaluation of the plaintiff’s ability to articulate his claims ‘in light of the complexity of the legal issues involved.’ Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th Cir. 1986) (quoting Weygandt v. Look, 718 F.2d 952, 954


1 (9th Cir. 1983)).” Agyeman v. Corrections Corp. of America, 390 F.3d 1101, 1103 (9th Cir.
2 2004). “Neither of these factors is dispositive and both must be viewed together before reaching
3 a decision on request of counsel under section 1915(d).” Wilborn, supra, 789 F.2d at 1331 (fn.
4 omitted); see also, Terrell v. Brewer, 935 F.2d 1015, 1017 (9th Cir. 1991).

5 Plaintiff meets both criteria listed above. Plaintiff alleges that defendant Colon
6 violated his Eighth Amendment rights by “slamming” a cell door on plaintiff. Plaintiff has a
7 chance of success as to this claim. In light of the complexity of this claim, appointment of
8 counsel is warranted.

9 Accordingly, IT IS HEREBY ORDERED that:

- 10 1. Plaintiff’s motion for appointment of counsel (Dkt. No. 88) is granted; and
11 2. The Clerk of Court is directed to locate forthwith an attorney admitted to
12 practice in this court who is willing to accept the appointment.

13 DATED: February 2, 2012

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16 KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

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