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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

PRASHANT KATYAL,  
Plaintiff,  
v.  
MEGAN J. BRENNAN, Postmaster  
General, United States Postal Service,  
Defendant.

No. 2:15-cv-1021-TLN-EFB PS

ORDER

Defendant filed a motion for summary judgment, which was originally noticed for hearing on January 25, 2016. ECF No. 13. Plaintiff was granted two extensions of time to respond to that motion, which is currently set for hearing on April 26, 2017. ECF Nos. 18, 20. However, the time to respond has expired and he has still not filed either an opposition or a statement of no opposition to the motion. On March 30, 2017, rather than filing a response to the pending motion, plaintiff filed a request for appointment of counsel. ECF No. 21. He contends that he needs counsel because he is no longer able to represent himself due to an unspecified medical condition. *Id.*

28 U.S.C. § 1915(e)(1) authorizes the appointment of counsel to represent an indigent civil litigant in certain exceptional circumstances. *See Terrell v. Brewer*, 935 F.2d 1015, 1017 (9th Cir.1991); *Wood v. Housewright*, 900 F.2d 1332, 1335–36 (9th Cir.1990); *Richards v.*

1 *Harper*, 864 F.2d 85, 87 (9th Cir.1988). In considering whether exceptional circumstances exist,  
2 the court must evaluate (1) the plaintiff's likelihood of success on the merits; and (2) the ability of  
3 the plaintiff to articulate his claims pro se in light of the complexity of the legal issues involved.  
4 *Terrell*, 935 F.2d at 1017. The court cannot conclude that plaintiff's likelihood of success, the  
5 complexity of the issues, or the degree of plaintiff's ability to articulate his claims amount to  
6 exceptional circumstances justifying the appointment of counsel at this time. Accordingly, the  
7 motion for appointment of counsel is denied.

8 In light of plaintiff's failure to file a response to defendant's motion for summary  
9 judgment, the hearing on the motion will be continued and plaintiff is granted one last extension  
10 of time to file an opposition to the pending motion. Plaintiff is admonished that no further  
11 extensions will be granted.

12 Accordingly, it is hereby ORDERED that:

- 13 1. Plaintiff's motion for appointment of counsel (ECF No. 21) is denied.
- 14 2. The hearing on defendant's motion for summary judgment (ECF No. 13) is continued  
15 to May 24, 2017.
- 16 3. Plaintiff shall file either an opposition or statement of non-opposition to the motion no  
17 later than May 10, 2017.
- 18 4. Failure to file an opposition to the motion will be deemed a statement of non-  
19 opposition thereto, and will result in a recommendation that defendant's motion be granted and/or  
20 the action be dismissed for lack of prosecution and/or for failure to comply with court orders and  
21 this court's Local Rules. *See* Fed. R. Civ. P. 41(b).
- 22 5. Defendant may file a reply to plaintiff's opposition, if any, on or before May 17, 2017.

23 DATED: April 13, 2017.

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25 EDMUND F. BRENNAN  
26 UNITED STATES MAGISTRATE JUDGE  
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