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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

MAYOLO DIMAS,  
  
Plaintiff,  
  
v.  
  
NANCY A. BERRYHILL, Acting  
Commissioner of Social Security,  
  
Defendant.

No. 2:16-cv-2720-EFB PS

ORDER

On November 17, 2017, plaintiff was ordered to show cause why sanctions should not be imposed for his failure to file his motion for summary judgment. ECF No. 17. He was also directed to file his motion for summary judgment by no later than December 20, 2017. *Id.* In response, plaintiff requests the court appoint him counsel and grant him an extension of time to file his motion for summary judgment. ECF No. 18. The request for appointment of counsel is denied and the request for an extension of time is granted.

28 U.S.C. § 1915(e)(1) authorizes the appointment of counsel to represent an indigent civil litigant in certain exceptional circumstances. *See Agyeman v. Corrections Corp. of America*, 390 F.3d 1101, 1103 (9th Cir 2004); *Terrell v. Brewer*, 935 F.2d 1015, 1017 (9th Cir.1991); *Richards v. Harper*, 864 F.2d 85, 87 (9th Cir. 1988). In considering whether exceptional circumstances exist, the court must evaluate (1) the plaintiff's likelihood of success on the merits;

1 and (2) the ability of the plaintiff to articulate his claims pro se in light of the complexity of the  
2 legal issues involved. *Terrell*, 935 F.2d at 1017. The court cannot find that plaintiff's likelihood  
3 of success, the complexity of the issues, or the degree of plaintiff's ability to articulate his claims  
4 amount to exceptional circumstances justifying the appointment of counsel at this time.  
5 Accordingly, plaintiff's request for appointment of counsel is denied without prejudice.

6 Plaintiff also requests additional time to file his motion for summary judgment, claiming  
7 that he does not "have all the documents ready." ECF No. 18. The court notes that in Social  
8 Security disability cases, such as this one, the district court's review is limited to the  
9 administrative record, *see Harman v. Apfel*, 211 F.3d 1172, 1177 (9th Cir. 2000), which was  
10 served on plaintiff on February 17, 2017, ECF No. 14. Thus, plaintiff has had all documents  
11 necessary to prepare his motion for summary judgment for nearly a year. Notwithstanding that  
12 fact, the request for an extension of time is granted, and plaintiff shall file his motion for  
13 summary judgment by no later than January 29, 2018.

14 DATED: January 8, 2018.

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16 EDMUND F. BRENNAN  
17 UNITED STATES MAGISTRATE JUDGE  
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