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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

ROBERT ENGLAND,  
Plaintiff,

No. C 10-153 SI (pr)

**ORDER**

v.

ROBERT HOREL; et al.,  
Defendants.

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Plaintiff has requested that counsel be appointed to assist him in this action. A district court has the discretion under 28 U.S.C. §1915(e)(1) to designate counsel to represent an indigent civil litigant in exceptional circumstances. *See Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986). This requires an evaluation of both the likelihood of success on the merits and the ability of the plaintiff to articulate his claims *pro se* in light of the complexity of the legal issues involved. *See id.* Neither of these factors is dispositive and both must be viewed together before deciding on a request for counsel under § 1915(e)(1). Here, exceptional circumstances requiring the appointment of counsel are not evident. The request for appointment of counsel is DENIED. (Docket # 22.)

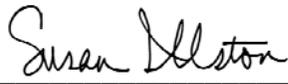
Plaintiff stated in his request that he was still awaiting a ruling on his first request for appointment of counsel. The court denied the first request for counsel in an order filed April 20, 2011. The clerk will mail plaintiff another copy of that order (i.e., docket # 15).

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In light of the possibility that plaintiff was waiting for a ruling on the request for appointment of counsel before preparing his opposition to the motion for summary judgment, the court now extends the deadlines on that motion. Plaintiff must file and serve on defense counsel his opposition to the motion for summary judgment no later than **December 23, 2011**. Defendants must file and serve their reply brief (if any) no later than **January 9, 2012**.

IT IS SO ORDERED.

Dated: November 9, 2011

  
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SUSAN ILLSTON  
United States District Judge