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\*E-Filed 12/19/12\*

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

SALVADOR NEGRETE,  
Plaintiff,

No. C 12-0809 RS (PR)

**ORDER OF DISMISSAL**

v.

G.D. LEWIS, et al.,  
Defendants.

United States District Court  
For the Northern District of California

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This is a federal civil rights action. The complaint was dismissed with leave to amend. Plaintiff has filed an amended complaint. The action is hereby DISMISSED because the amended complaint fails to cure the deficiencies discussed in the Court’s prior order. The allegations are conclusory and undetailed, and as such fail to show that plaintiff suffered an actual injury because of an inadequacy in the prison’s legal access program. More specifically, he has failed to show that the alleged inadequacy in the prison’s program hindered his efforts to pursue a non-frivolous claim concerning his conviction or conditions of confinement. *See Lewis v. Casey*, 518 U.S. 343, 354–55 (1996).

No. C 12-0809 RS (PR)  
ORDER OF DISMISSAL

1           Petitioner’s motion for the appointment of counsel (Docket No. 7) is DENIED. The  
2 decision to request counsel to represent an indigent litigant under § 1915 is within “the sound  
3 discretion of the trial court and is granted only in exceptional circumstances.” *Franklin v.*  
4 *Murphy*, 745 F.2d 1221, 1236 (9th Cir. 1984). A finding of “exceptional circumstances”  
5 requires an evaluation of the likelihood of the plaintiff’s success on the merits and an  
6 evaluation of the plaintiff’s ability to articulate his claims *pro se* in light of the complexity of  
7 the legal issues involved. *See Agyeman v. Corrections Corp. of America*, 390 F.3d 1101,  
8 1103 (9th Cir. 2004). Neither the need for discovery, nor the fact that the *pro se* litigant  
9 would be better served with the assistance of counsel, necessarily qualify the issues involved  
10 as complex. *See Rand v. Rowland*, 113 F.3d 1520, 1525 (9th Cir. 1997). Plaintiff has not  
11 shown that exceptional circumstances exist. The Clerk shall terminate Docket No. 7, enter  
12 judgment in favor of defendants, and close the file.

13                           **IT IS SO ORDERED.**

14 DATED: December 19, 2012

  
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RICHARD SEEBORG  
United States District Judge