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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

KEVIN DEROI SAWYER,  
Plaintiff,  
v.  
CHRIS MACDONALD, et al.,  
Defendants.

Case No. [15-cv-00220-JD](#)

**ORDER DENYING MOTION TO  
APPOINT COUNSEL**

Re: Dkt. No. 37

Plaintiff, a state prisoner, proceeds with a pro se civil rights complaint under 42 U.S.C. § 1983. The Court ordered service on defendants Cavagnolo, McDonald, and Tate who worked at San Quentin State Prison. Cavagnolo has been served. The United States Marshal reported that the California Department of Corrections and Rehabilitation (“CDCR”) has no current employment information regarding McDonald and no forwarding information. Docket No. 19. Defendant Tate no longer works for CDCR and while a forwarding address was provided, the United States Marshal went to the new address but learned that Tate had moved with no forwarding address. *Id.* Plaintiff later provided a new address for defendant Tate, but the United States Marshal was unable to serve the defendant. The United States Marshal learned that Tate had moved with no forwarding address. Docket No. 44. Within 28 days of service of this order, plaintiff must provide more information to serve these defendants or they will be dismissed pursuant to Fed. R. Civ P. 4(m). Plaintiff may seek such information through the California Public Records Act or any other means available.

Plaintiff has also requested the appointment of counsel. The Ninth Circuit has held that a district court may ask counsel to represent an indigent litigant only in “exceptional circumstances,” the determination of which requires an evaluation of both (1) the likelihood of

1 success on the merits, and (2) the ability of the plaintiff to articulate his claims pro se in light of  
2 the complexity of the legal issues involved. *Terrell v. Brewer*, 935 F.2d 1015, 1017 (9th Cir.  
3 1991). Plaintiff appears able to present his claims adequately, and the issues are not complex.

4 **CONCLUSION**

5 1. Plaintiff's motion to appoint counsel (Docket No. 37) is **DENIED**.

6 2. Within **28 days of service of this order**, plaintiff must provide more information to  
7 serve McDonald and Tate or they will be dismissed pursuant to Fed. R. Civ P. 4(m). Plaintiff may  
8 seek such information through the California Public Records Act or any other means available.

9 **IT IS SO ORDERED.**

10 Dated: January 12, 2017

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14 JAMES DONATO  
15 United States District Judge  
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1 UNITED STATES DISTRICT COURT  
2 NORTHERN DISTRICT OF CALIFORNIA

3 KEVIN DEROI SAWYER,  
4 Plaintiff,

5 v.

6 CHRIS MACDONALD, et al.,  
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8

Case No. [15-cv-00220-JD](#)

**CERTIFICATE OF SERVICE**

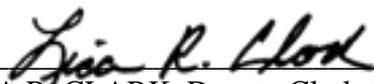
9 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S.  
10 District Court, Northern District of California.

11  
12 That on January 12, 2017, I SERVED a true and correct copy(ies) of the attached, by  
13 placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by  
14 depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery  
15 receptacle located in the Clerk's office.  
16

17 Kevin DeRoi Sawyer  
18 P22673  
19 San Quentin State Prison  
20 San Quentin, CA 94974

21 Dated: January 12, 2017

22  
23 Susan Y. Soong  
24 Clerk, United States District Court

25  
26 By:   
27 LISA R. CLARK, Deputy Clerk to the  
28 Honorable JAMES DONATO

United States District Court  
Northern District of California