UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

FRED FULFORD,

Plaintiff,

v.

DON M. GRIFFITH,

Defendant.

Case No. 16-cv-00770-MEJ (PR)

ORDER DENYING PLAINTIFF'S MOTION FOR APPOINTMENT OF COUNSEL

Re: Dkt. No. 15

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 therefore DENIED. The Court will consider appointment of counsel on its own motion, and seek volunteer counsel to agree to represent plaintiff pro bono, if it determines at a later time in the proceedings that appointment of counsel is warranted.

This order terminates Docket No. 15.

IT IS SO ORDERED.

Dated: August 31, 2016

MARIA-ELENA JAMES
United States Magistrate Judge

United States District Court
Northern District of California