

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CARLOS H. ALMEIDA,
Plaintiff,
v.
CLARK E. DUCART, et al.,
Defendants.

Case No. [16-cv-02689-JD](#)

ORDER DENYING MOTIONS

Re: Dkt. Nos. 18, 19

This is a civil rights case filed by a state prisoner. The Court ordered service on several defendants and a dispositive motion is to be filed by January 30, 2017. Plaintiff has filed an order compelling defendants to file an answer or a motion to dismiss. This motion (Docket No. 18) is **DENIED** because defendants will be filing a dispositive motion shortly and defendants filed a waiver of reply which relieves them of the need to file an answer. *See* 42 U.S.C. 1997e(g)(1).

Plaintiff has also filed a motion for 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 success on the merits, and (2) the ability of the plaintiff to articulate his claims pro se in light of the complexity of the legal issues involved. *Terrell v. Brewer*, 935 F.2d 1015, 1017 (9th Cir. 1991). Plaintiff has adequately presented his claims and the issues are not complex. Therefore, the motion to appoint counsel (Docket No. 19) is **DENIED**.

IT IS SO ORDERED.

Dated: January 17, 2017



JAMES DONATO
United States District Judge

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CARLOS H. ALMEIDA,
Plaintiff,
v.
CLARK E. DUCART, et al.,
Defendants.

Case No. [16-cv-02689-JD](#)

CERTIFICATE OF SERVICE

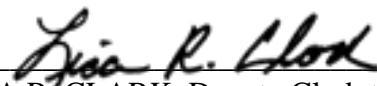
I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on January 17, 2017, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Carlos H. Almeida
G30247
P.O. Box 3030
Susanville, CA 96127

Dated: January 17, 2017

Susan Y. Soong
Clerk, United States District Court

By: 
LISA R. CLARK, Deputy Clerk to the
Honorable JAMES DONATO