

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

GEORGE ELLIS WALLACE,
Plaintiff,
v.
C. E. DUCART, et al.,
Defendants.

Case No. [16-cv-03798-SI](#)

ORDER

Re: Dkt. No. 45

Plaintiff has requested that counsel be appointed to represent him in this action. Docket No. 45. 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 at this time. Plaintiff has been able to adequately articulate his claims, and there appears to be a low likelihood of success on the merits. The request for appointment of counsel is DENIED. Docket No. 45.

Plaintiff stated in his request for counsel that he has limited law library access due to a prison lockdown. To aid him with at least some of his research for an upcoming deadline, within seven days of the date of this order, defendants must mail to plaintiff a copy of all the cases and other legal authorities they cited in their supplement to their motion for summary judgment.

1 The court now resets the briefing schedule on defendants' supplement to their motion for
2 summary judgment as follows: Plaintiff must file and serve on defense counsel any supplement to
3 his opposition to the motion for summary judgment no later than **June 15, 2018**. Defendants must
4 file and serve any supplement to their reply brief no later than **June 29, 2018**.

5 **IT IS SO ORDERED.**

6 Dated: May 7, 2018

7 

8 SUSAN ILLSTON
9 United States District Judge
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28