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2 UNITED STATES DISTRICT COURT  
3 NORTHERN DISTRICT OF CALIFORNIA  
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5 CEDRIC CHESTER JOHNSON,

6 Plaintiff,

7 v.

8 CTF SOLEDAD STATE PRISON, et al.,

9 Defendants.

Case No. 16-cv-05548-MEJ (PR)

**ORDER DENYING PLAINTIFF'S  
MOTION FOR APPOINTMENT OF  
COUNSEL**

Re: Dkt. No. 5

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11 Plaintiff has requested that counsel be appointed to assist him in this action. A district  
12 court has the discretion under 28 U.S.C. § 1915(e)(1) to designate counsel to represent an indigent  
13 civil litigant in exceptional circumstances. See Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th  
14 Cir. 1986). This requires an evaluation of both the likelihood of success on the merits and the  
15 ability of the plaintiff to articulate his claims pro se in light of the complexity of the legal issues  
16 involved. See id. Neither of these factors is dispositive and both must be viewed together before  
17 deciding on a request for counsel under § 1915(e)(1). Here, exceptional circumstances requiring  
18 the appointment of counsel are not evident. The request for appointment of counsel is therefore  
19 DENIED. The Court will consider appointment of counsel on its own motion, and seek volunteer  
20 counsel to agree to represent plaintiff pro bono, if it determines at a later time in the proceedings  
21 that appointment of counsel is warranted.

22 This order terminates Docket No. 5.

23 **IT IS SO ORDERED.**

24 Dated: January 10, 2017

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27 MARIA-ELENA JAMES  
United States Magistrate Judge