

United States District Court
Northern District of California

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
San Francisco Division

VINTON P. FROST,
Plaintiff,
v.
GARY S. PINKUS, et al.,
Defendants.

Case No. 17-cv-01308-LB

**ORDER DENYING REQUEST FOR
COUNSEL REPRESENTATION**

Re: ECF No. 7

On March 10, 2017, pro se plaintiff Vinton P. Frost filed a complaint against defendants Gary S. Pinkus and the United States Pro Se Counsel.¹ He filed an application to proceed in forma pauperis, which the court granted.² The court was unable to discern a federal claim in Mr. Frost’s complaint, and dismissed it with leave to amend.³ Mr. Frost has since amended his complaint.⁴ Mr. Frost also requests that the court appoint a volunteer to serve as “replacement pro se counsel.”⁵ But because this case does not exhibit the exceptional circumstances that warrant appointment of counsel, the court denies the motion.

¹ Complaint – ECF No. 1.
² ECF Nos. 3, 4.
³ Order – ECF No. 6.
⁴ First Amended Compl. – ECF No. 8.
⁵ Motion to Appoint Counsel – ECF No. 7.

1 Unless a party may lose his or her physical liberty if the case is lost, there is generally no
2 constitutional right to an attorney in a civil action. *See Lassiter v. Dep't of Soc. Serv. of Durham*
3 *Cnty., N.C.*, 452 U.S. 18, 25 (1981); *Nicholson v. Rushen*, 767 F.2d 1426, 1427 (9th Cir. 1985).
4 Nonetheless, under 28 U.S.C. § 1915(e)(1), the court has the discretion to appoint volunteer
5 counsel for “any person unable to afford counsel” in a case involving “exceptional circumstances.”
6 *Terrell v. Brewer*, 935 F.2d 1015, 1017 (9th Cir. 1991). “A finding of exceptional circumstances
7 requires an evaluation of both [(1)] the likelihood of success on the merits and [(2)] the ability of
8 the petitioner to articulate his claims *pro se* in light of the complexity of the legal issues involved.
9 Neither of these factors is dispositive and both must be viewed together before reaching a
10 decision.” *Id.* (internal quotation omitted).

11 Here, Mr. Frost requests appointment of counsel “[b]ecause the San Francisco Pro Se Counsel
12 is a defendant in this action.”⁶ The court notes that Mr. Frost seeks only “limited-scope legal
13 assistance for this and other actions filed before the court in San Francisco.”⁷ But, at this stage in
14 the litigation, the court does not find exceptional circumstances warranting the appointment of
15 counsel. The court previously provided Mr. Frost with the district’s *Handbook for Pro Se*
16 *Litigants*, and gave him information about the Legal Help Center.⁸ It appears that Mr. Frost has
17 named as defendants Help Center employees,⁹ but the *Handbook* may prove helpful at this stage.

18 Because this case does not exhibit exceptional circumstances, the court denies Mr. Frost’s
19 motion. The denial is without prejudice, however, meaning that Mr. Frost may again move for
20 appointment of counsel at a later date.

21 **IT IS SO ORDERED.**

22 Dated: April 6, 2017



23 LAUREL BEELER
24 United States Magistrate Judge

25 _____
26 ⁶ *Id.*

27 ⁷ *Id.*

28 ⁸ *See* ECF No. 4.

⁹ *See* First Amended Comp. at 3.