

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

AARON LAMONT STRIBLING,
Plaintiff,

v.

CORRECTIONAL OFFICER BROWN,
et al.,

Defendants.

Case No. [15-cv-03337-YGR](#) (PR)

**ORDER DENYING PLAINTIFF'S
REQUEST FOR COURT TO ORDER
DEFENDANTS TO FILE ANSWER;
AND DENYING HIS MOTION FOR
APPOINTMENT OF COUNSEL**

Plaintiff requests that the Court direct Defendants to file an answer to the complaint. The request is DENIED. Dkt. 11. On March 10, 2016, Defendants filed a waiver of reply pursuant to 42 U.S.C. § 1997e(g) (allowing a defendant to “waive the right of reply” in a civil rights action filed by a prisoner, providing that such a waiver is not an admission of the allegations in the complaint, and disallowing relief for the plaintiff unless a reply has been filed). In their waiver, Defendants correctly noted that the Court had not yet required a reply, pursuant to 42 U.S.C. § 1997e(g)(2). Instead, Defendants have since filed a dispositive motion, which is currently before this Court. *See* Dkt. 18.

Plaintiff also has requested that counsel be appointed to represent him in this action. *See* Dkt. 11 at 1. 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. The request for appointment of counsel is DENIED. Dkt. 11.

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This Order terminates Docket No. 11.

IT IS SO ORDERED.

Dated: February 7, 2017



EVONNE GONZALEZ ROGERS
United States District Judge