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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MARIO ALEXANDER NUNGARAY, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 DR. LINDA ROWE, et al., )  
 )  
 Defendants. )

No. C 09-1768 LHK (PR)  
  
ORDER DENYING MOTIONS  
FOR APPOINTMENT OF  
COUNSEL; DENYING  
PLAINTIFF'S SECOND  
MOTION FOR ENTRY OF  
DEFAULT

Plaintiff filed a *pro se* civil rights action on April 22, 2009. On October 14, 2009, the Court screened the complaint pursuant to 28 U.S.C. 1915A(a) and found that Plaintiff sufficiently alleged a cognizable Eighth Amendment claim and ordered service on Defendants. The Court directed the Defendants to respond to the order of service within sixty days.

On January 7, 2010, Plaintiff filed a declaration for entry of default stating the Defendants failed to answer within the sixty day time frame. On February 12, 2010, Defendants filed a motion for extension of time to file their dispositive motion. In an order dated August 3, 2010, the Court granted Defendants' motion for extension of time to file their dispositive motion and denied Plaintiff's motion for default as well as his motion for appointment of counsel.

Now before the Court is Plaintiff's second motion for entry of default (docket no. 21) and second and third motions for appointment of counsel. (Docket nos. 22, 26.)

Plaintiff's motions for appointment of counsel (docket nos. 22, 26) are DENIED for want of exceptional circumstances. *See Rand v. Rowland*, 113 F.3d 1520, 1525 (9th Cir. 1997);

1 *see also Lassiter v. Dep't of Social Services*, 452 U.S. 18, 25 (1981) (there is no constitutional  
2 right to counsel in a civil case). The issues in this case are not particularly complex, and  
3 Plaintiff has thus far been able to adequately present his claims. This denial is without prejudice  
4 to the Court's *sua sponte* appointment of counsel at a future date should the circumstances of this  
5 case warrant such appointment.

6 Plaintiff's second request for entry of default (docket no. 21) is DENIED for the reasons  
7 stated in the Court's August 3, 2010 order.

8 This order terminates docket nos. 21, 22 and 26.

9 IT IS SO ORDERED.

10 DATED: 9/22/2010

  
\_\_\_\_\_  
LUCY H. KOH  
United States District Judge