

E-Filed: June 24, 2015

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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA

10 HARRIS L. WINNS,
11 Plaintiff,

12 v.

13 MERIT SYSTEMS PROTECTION
14 BOARD, et al.,
15 Defendants.

Case No. 15-cv-02313-HRL

**ORDER DENYING MOTION TO
APPOINT COUNSEL**

Re: Dkt. No. 3

16 Plaintiff Harris L. Winns was employed as a Sales & Services/Distribution Associate at the
17 U.S. Postal Service. His employment was terminated in October 2014. Plaintiff filed an appeal
18 challenging his termination, which an administrative law judge dismissed for lack of jurisdiction.
19 Plaintiff filed a petition for review, and the United States Merit Systems Protection Board affirmed
20 the initial decision issued by the administrative law judge. Plaintiff, proceeding pro se, now sues
21 the Merit Systems Protection Board, Megan Brennan (Postmaster General), and the U.S. Postal
22 Service, challenging the final order issued by the Merit Systems Protection Board. Plaintiff has
23 filed a motion to appoint counsel.

24 A district court may appoint counsel “[u]pon application by the complainant and in such
25 circumstances as the court may deem just.” 42 U.S.C. § 2000e-5(f)(1)(B). “Three factors are
26 relevant to a trial court’s determination of whether to appoint counsel: (1) the plaintiff’s financial
27 resources; (2) the efforts made by the plaintiff to secure counsel on his or her own; and (3) the
28 merit of the plaintiff’s claim.” *Johnson v. U.S. Treasury Dep’t*, 27 F.3d 415, 416–17 (9th Cir.


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1994) (quotation omitted).

In his motion, Plaintiff does not indicate that he has made any effort to retain any private attorney to handle his claim. In addition, although the court refrains from ruling on the merits of Plaintiff's claim at this time, Plaintiff has not shown that the potential merit of his claim warrants the appointment of counsel. Accordingly, the second and third factors in *Johnson* weigh against appointing counsel. The motion to appoint counsel is denied without prejudice.

IT IS SO ORDERED.

Dated: June 24, 2015



HOWARD R. LLOYD
United States Magistrate Judge