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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

EDUARDO NUNEZ,	)	Case No. 09cv413-WQH (BLM)
	)	
Plaintiff,	)	<b>ORDER DENYING PLAINTIFF'S</b>
v.	)	<b>MOTION FOR APPOINTMENT OF</b>
	)	<b>COUNSEL</b>
C/O F. RAMIREZ,	)	
	)	[Doc. No. 18]
Defendant.	)	
_____	)	

On April 30, 2010, Plaintiff, a state prisoner proceeding *pro se*, moved this Court to appoint counsel. Doc. No. 18. In support of his motion, Plaintiff states that the "complex" issues involved in this case "will require significant research and investigation," he has "limited access to the law library and limited knowledge of the law," and "counsel would better enable [P]laintiff to present evidence and cross examine witnesses" at trial. Id. at 1. Plaintiff states that despite his "repeated efforts" to obtain a lawyer, he has been unable to do so and he therefore requests the appointment of counsel to assist him in prosecuting this civil action. Id. For the following reasons, Plaintiff's motion is **DENIED**.

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1 The Constitution provides no right to appointment of counsel in a  
2 civil case unless an indigent litigant may lose his physical liberty if  
3 he loses the litigation. Lassiter v. Dep't of Soc. Servs., 452 U.S. 18,  
4 25 (1981). However, under 28 U.S.C. § 1915(e)(1), courts are granted  
5 discretion to appoint counsel for indigent persons under "exceptional  
6 circumstances." Agyeman v. Corr. Corp. of Am., 390 F.3d 1101, 1103 (9th  
7 Cir. 2004). A finding of exceptional circumstances demands at least "an  
8 evaluation of the likelihood of the plaintiff's success on the merits  
9 and an evaluation of the plaintiff's ability to articulate his claims  
10 'in light of the complexity of the legal issues involved.'" Id.  
11 (quoting Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th Cir. 1986)).

12 Thus far, Plaintiff has drafted and submitted numerous pleadings  
13 and motions without the assistance of counsel. In addition to the  
14 instant motion, he has submitted a complaint (Doc. No. 1), a motion to  
15 proceed *in forma pauperis* (Doc. No. 2), and a response in opposition to  
16 Defendant's motion to dismiss count 1 of the complaint (Doc. No. 9).  
17 Furthermore, via the U.S. Marshals, Plaintiff successfully effected  
18 service of the summons on his complaint. Doc. No. 3.

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1 From the Court's review of these documents, it is clear that  
2 Plaintiff is able to articulate the claims of his case. Further,  
3 Plaintiff does not demonstrate a likelihood of success on the merits  
4 such that his case should be classified as an "exceptional  
5 circumstance." Agyeman, 390 F.3d at 1103; see also Wilborn, 789 F.2d at  
6 1331. Plaintiff's request for appointment of counsel is therefore  
7 **DENIED.**

8 **IT IS SO ORDERED.**

9  
10 DATED: May 3, 2010

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12 BARBARA L. MAJOR  
13 United States Magistrate Judge  
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18 COPY TO:

19 HONORABLE WILLIAM Q. HAYES  
20 U.S. DISTRICT JUDGE

21 ALL COUNSEL AND UNREPRESENTED PARTIES  
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