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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

TORRY BUCHANAN,

Plaintiff,

v.

DR. A. GARIKAPARTHI, et al.,

Defendants.

Case No.: 15cv59-BEN-MDD

**ORDER DENYING MOTION TO  
APPOINT PRO BONO  
COUNSEL**

**[ECF No. 10]**

On May 23, 2016, Plaintiff moved for appointment of counsel. (ECF No. 10). The Court has reviewed the submission and **DENIES** Petitioner's Motion for the reasons stated below.

Plaintiff claims that he is unable to afford counsel. He further claims that, "[i]mprisonment will greatly limit his ability to litigate." He explains that the issues he is faced with in this case will require a significant amount of research and investigation, which is difficult due to his limited access to law libraries and limited knowledge of the law. Plaintiff further argues that he needs counsel appointed for trial purposes. Finally, Plaintiff mentions his comprehension is below average. Plaintiff does not attach any exhibits in support of his claims.

Generally, a person has no right to counsel in civil actions. *Palmer v. Valdez*, 560 F.3d 965, 970 (9th Cir. 2009). Districts courts have discretion pursuant to 28 U.S.C. § 1915(e)(1), to "request" that an attorney represent

1 indigent civil litigants upon a showing of exceptional circumstances. *Terrell*  
2 *v. Brewer*, 935 F.2d 1015, 1017 (9th Cir. 1991). “A finding of exceptional  
3 circumstances requires an evaluation of both ‘the likelihood of success on the  
4 merits and the ability of the petitioner to articulate his claims *pro se* in light  
5 of the complexity of the legal issues involved.’ Neither of these factors is  
6 dispositive and both must be viewed together before reaching a decision.” *Id.*  
7 at 1017 (quoting *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986)).

8 Plaintiff has litigated this case for over a year without assistance of  
9 counsel. In that time, Plaintiff has demonstrated an ability to articulate his  
10 claims and his pleading survived the early screening process. (See ECF No.  
11 1, 3, 4). While the Court acknowledges that Plaintiff claims his  
12 comprehension is below average, Plaintiff has not supported that claim with  
13 any evidence. Further, Plaintiff’s remaining claims are not particularly  
14 complex, and although sufficiently plead to survive screening Plaintiff has  
15 not demonstrated a likelihood of success on the merits. Thus, Plaintiff has  
16 not demonstrated the “exceptional circumstances” required for the Court to  
17 appoint counsel.

18 In light of Plaintiff’s present ability to articulate his claims and the  
19 complexity of the case, Plaintiff’s Motion for the Appointment of Counsel is  
20 **DENIED** without prejudice.

21  
22 **IT IS SO ORDERED.**

23  
24 Dated: May 27, 2016



25  
26 Hon. Mitchell D. Dembin  
27 United States Magistrate Judge