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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 PLAINTIFF’S
MOTION FOR THE
APPOINTMENT OF COUNSEL**

[ECF No. 44]

On May 28, 2017, Plaintiff moved for the appointment of counsel. (ECF No. 44). Plaintiff requests counsel be appointed to assist him because he is an indigent prisoner, Plaintiff is a layperson with “limited access to the law library and limited knowledge of the law,” and Plaintiff “does not have the experience of legal qualifications to confront testimony or to cross examine” Defendants’ expert witnesses or to present his own evidence. (*Id.* at 1-2). In support, Plaintiff attaches Defendant Garikaparthi’s expert witness designation and expert report. (*Id.* at 4-143). For the reasons stated herein, the Court **DENIES** Plaintiff’s motion.

There is no constitutional right to counsel in civil cases. *Lassiter v. Department of Social Servs.*, 452 U.S. 18, 25 (1981). District courts have

1 discretion to appoint counsel to represent an indigent civil litigant, but this
2 discretion is rarely exercised and only under “exceptional circumstances.”
3 *Agyeman v. Corr. Corp. of America*, 390 F.3d 1101, 1103 (9th Cir. 2004). A
4 finding of exceptional circumstances requires “an evaluation of the likelihood
5 of the plaintiff’s success on the merits and an evaluation of the plaintiff’s
6 ability to articulate his claims “in light of the complexity of the legal issues
7 involved.” *Id.* at 1103 (quoting *Wilborn v. Escalderon*, 789 F.2d 1328, 1331
8 (9th Cir. 1986)).

9 Plaintiff has litigated this case for over two years without assistance of
10 counsel. In that time, Plaintiff has demonstrated an ability to articulate his
11 claims, his pleading survived the early screening process, and he participated
12 in a Mandatory Settlement Conference before this Court on May 26, 2017.
13 (See ECF Nos. 1, 3, 4, 13, 25, 42). Additionally, Plaintiff’s remaining claims
14 are not particularly complex, and although sufficiently plead to survive
15 screening, Plaintiff has not demonstrated a likelihood of success on the
16 merits. Accordingly, Plaintiff has not demonstrated “exceptional
17 circumstances” and his motion is **DENIED**.

18 **IT IS SO ORDERED.**

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20 Dated: June 1, 2017

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22 Hon. Mitchell D. Dembin
23 United States Magistrate Judge
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