

1 result, he contends he suffered adverse consequences at his parole hearing. He claims
2 violations of his First, Eighth, and Fourteenth Amendment rights.

3 **II. APPLICABLE LAW**

4 “There is no constitutional right to appointed counsel in a § 1983 action.” *Rand v.*
5 *Rowland*, 113 F.3d 1520, 1525 (9th Cir. 1997) (partially overruled en banc on other
6 grounds). Thus, federal courts do not have the authority “to make coercive appointments
7 of counsel.” *Mallard v. U.S. Dist. Ct.*, 490 U.S. 296, 310 (1989); *see also United States v.*
8 *\$292,888.04 in U.S. Currency*, 54 F.3d 564, 569 (9th Cir. 1995).

9 Districts courts do have discretion, however, pursuant to 28 U.S.C. section
10 1915(e)(1), to request that an attorney represent indigent civil litigants upon a showing of
11 exceptional circumstances. *See Agyeman v. Corrections Corp. of America*, 390 F.3d 1101,
12 1103 (9th Cir. 2004). “A finding of the exceptional circumstances of the plaintiff seeking
13 assistance requires at least an evaluation of the likelihood of the plaintiff’s success on the
14 merits and an evaluation of the plaintiff’s ability to articulate his claims ‘in light of the
15 complexity of the legal issues involved.’” *Agyeman*, 390 F.3d at 1103 (quoting *Wilborn v.*
16 *Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986)); *see also Terrell v. Brewer*, 935 F.2d
17 1015, 1017 (9th Cir. 1991).

18 The Court agrees that any pro se litigant “would be better served with the assistance
19 of counsel.” *Rand*, 113 F.3d at 1525; citing *Wilborn*, 789 F.2d at 1331. However, so long
20 as a pro se litigant, like Plaintiff in this case, is able to “articulate his claims against the
21 relative complexity of the matter,” the exceptional circumstances which might require the
22 appointment of counsel do not exist. *Rand*, 113 F.3d at 1525 (finding no abuse of discretion
23 under 28 U.S.C. § 1915(e) when district court denied appointment of counsel despite fact
24 that pro se prisoner “may well have fared better-particularly in the realms of discovery and
25 the securing of expert testimony”).

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1 **III. DISCUSSION**

2 Plaintiff contends he needs counsel appointed here because he does not have any
3 legal education, has a 10th-grade education, is unable to afford counsel, and is unable to
4 obtain evidence as well as an attorney. Plaintiff does not qualify for appointment of counsel
5 under the rigorous standard explained above.

6 First, Plaintiff’s lack of education in the law and 10th-grade education level have not
7 prevented him from filing very cogent and well-organized documents. For example, the
8 Complaint is one of the better prisoner operative pleadings this Court has seen. It is type-
9 written, well-organized, and includes sections that are typically included in complaints
10 filed by attorneys. It sets forth the factual allegations of this case quite well. This case is
11 not complex, as it does not present novel questions or theories of law, and this area of law
12 itself is not complex. Moreover, the Court held a Mandatory Settlement Conference on
13 August 17, 2017, during which Plaintiff articulated his position with precision and clarity.
14 He was able to recall events and discuss them intelligently and clearly.

15 The law in this areas is quite settled. Plaintiff’s factual allegations are also non-
16 complex and are in line with similar claims routinely litigated before this Court by *pro se*
17 prisoners. Thus, Plaintiff will not need the assistance of an attorney to research and argue
18 some arcane or unclear legal theory at this time. He has done quite well so far on his own
19 and will continue to do so without an attorney.

20 Second, Plaintiff’s indigence is not a factor the Court considers persuasive given that
21 all or nearly all prisoners are indigent, and parties in civil cases are not automatically
22 entitled to appointed counsel despite their indigence.

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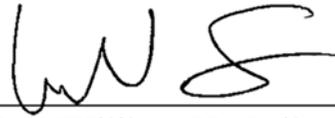
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1 Finally, although an attorney would be able to better conduct discovery, the
2 limitations placed on Plaintiff based on his incarceration are no greater than any other
3 prisoner plaintiff. Plaintiff may propound discovery, and he may petition the Court for
4 redress if a dispute arises.

5 Plaintiff's request for appointment of counsel is **DENIED** without prejudice.

6 **IT IS SO ORDERED.**

7 DATED: August 17, 2017

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Hon. William V. Gallo
United States Magistrate Judge