

1 42 U.S.C. § 1983. Although the Court, under 28 U.S.C. § 1915(e)(1), can request counsel to
2 represent a party proceeding *in forma pauperis*, the Court may do so only in exceptional
3 circumstances. *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986); *Franklin v.*
4 *Murphy*, 745 F.2d 1221, 1236 (9th Cir. 1984); *Aldabe v. Aldabe*, 616 F.2d 1089 (9th Cir. 1980).
5 A finding of exceptional circumstances requires an evaluation of both the likelihood of success
6 on the merits and the ability of the plaintiff to articulate his claims pro se in light of the
7 complexity of the legal issues involved. *Wilborn*, 789 F.2d at 1331.

8 Plaintiff has not, at this juncture, demonstrated a likelihood of success on the merits nor
9 shown that, in light of the complexity of the legal issues involved, he is unable to articulate his
10 claims pro se. Thus, plaintiff has not demonstrated that this case involves exceptional
11 circumstances which warrant appointment of counsel at the present time.

12 (2) While the Court concludes that appointment of counsel is not appropriate at this
13 time, the Court is willing to grant plaintiff some additional time to respond to defendants'
14 pending motion to dismiss given his current lack of access to his legal materials. Plaintiff
15 indicated in a recent letter advising the Court of his temporary change of address that he
16 expected to be at KCJ until the end of October and then to be transferred back to DOC custody.
17 (*See* Dkt. 15.) In an effort to accommodate this schedule, the Court will grant plaintiff an
18 extension of time until **November 24, 2014** to file and serve a response to defendants' pending
19 motion to dismiss. Defendants' motion (Dkt. 16) is RENOTED on the Court's calendar for
20 consideration on **November 28, 2014**.

21 (3) The Clerk is directed to send copies of this Order to plaintiff, to counsel for
22 defendants, and to the Honorable Marsha J. Pechman.

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1 DATED this 29th day of October, 2014.

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4 Mary Alice Theiler
5 Chief United States Magistrate Judge
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