

1
2
3
4
5
6
7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 JOHN CHEN,

11 Plaintiff,

12 v.

13 ANDREW CAMPBELL and ANDREW
14 HARTSTONE, INTERNAL REVENUE
15 SERVICE,

16 Defendants.

Case No. C17-149 RSM

ORDER DENYING PLAINTIFF'S
MOTION TO APPOINT COUNSEL

17 This matter comes before the Court on Plaintiff's Amended Motion to Appoint Counsel,
18 Dkt. #4. Plaintiff argues that he needs court-appointed counsel because his prior counsel was
19 ineffective, he is unemployed with financial difficulties, and because he has sought the
20 involvement of several attorneys who were "unwilling to pick up a case went bad (sic) and the
21 amount of claims allowed compared to the length and cost." Dkt. #4 at 1. Plaintiff states that
22 he has "studied my case and prepared my evidences but the IRS had taken the advantage of me
23 before legally and culturely (sic)." *Id.*

24 In "exceptional circumstances," a district court may appoint counsel for indigent civil
25 litigants. 28 U.S.C. § 1915(e)(1); *Rand v. Rowland*, 113 F.3d 1520, 1525 (9th Cir. 1997),
26 *overruled on other grounds*, 154 F.3d 952 (9th Cir. 1998). To decide whether exceptional
27
28

ORDER DENYING PLAINTIFF'S MOTION TO APPOINT COUNSEL - 1

1 circumstances exist, the Court must evaluate both “the likelihood of success on the merits [and]
2 the ability of the [plaintiff] to articulate his claims *pro se* in light of the complexity of the legal
3 issues involved.” *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986) (quoting
4 *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983)). A plaintiff must plead facts showing he
5 has an insufficient grasp of his case or the legal issues involved and an inadequate ability to
6 articulate the factual basis of his claims. *Agyeman v. Corrections Corp. of America*, 390 F.3d
7 1101, 1103 (9th Cir. 2004).
8

9 In this case, given Plaintiff’s income, assets, and expenses, it appears that Plaintiff can
10 afford counsel. See Financial Affidavit, Dkt. #2 at 4. Even if Plaintiff could not afford
11 counsel, Plaintiff appears capable of preparing his own case and presenting it to the Court in an
12 understandable fashion. Based on the limited record before the Court, it is not clear that
13 Plaintiff’s claims are likely to succeed on the merits. Taking all of this into consideration, the
14 Court finds that this case lacks the “exceptional circumstances” necessary to appoint counsel
15 and will deny Plaintiff’s Motion.
16

17 Having reviewed the relevant briefing, the declarations and exhibits attached thereto,
18 and the remainder of the record, the Court hereby finds and ORDERS that Plaintiff’s Amended
19 Motion to Appoint Counsel (Dkt. #4) is DENIED.
20

21
22 DATED this 3 day of April 2017.
23

24
25 

26 RICARDO S. MARTINEZ
27 CHIEF UNITED STATES DISTRICT JUDGE
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28