

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

DOUGLAS JAMES ASHBY,

Plaintiff,

V.

NANCY A. BERRYHILL, Acting
Commissioner of Social Security,

Defendant.

CASE NO. 2:17-CV-01576-DWC

**ORDER DENYING MOTION TO
APPOINT COUNSEL**

Plaintiff Douglas James Ashby, proceeding *pro se* and *in forma pauperis*, filed this action pursuant to 42 U.S.C. § 405(g). *See* Dkt. 1, 2, 3. Currently pending in this case is Plaintiff's Application for Court-Appointed Counsel. Dkt. 6.

In “exceptional circumstances,” a district court may appoint counsel for indigent civil litigants pursuant to 28 U.S.C. § 1915(e)(1) (formerly 28 U.S.C. § 1915(d)). *Terrell v. Brewer*, 935 F.2d 1015, 1017 (9th Cir. 1991); *Rand v. Roland*, 113F.3d 1520, 1525 (9th Cir. 1997), overruled on other grounds, 154 F.3d 952 (9th Cir. 1998); see 28 U.S.C. § 1915(e)(1). To decide whether exceptional circumstances exist, the Court must evaluate both “the likelihood of success on the merits [and] the ability of the [plaintiff] to articulate his claims *pro se* in light of the

1 complexity of the legal issues involved.” *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir.
2 1986) (quoting *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983)). A plaintiff must plead
3 facts showing he has an insufficient grasp of his case or the legal issues involved and an
4 inadequate ability to articulate the factual basis of his claims. *Agyeman v. Corrections Corp. of
5 America*, 390 F.3d 1101, 1103 (9th Cir. 2004).

6 Here, Plaintiff submitted an Application for Court-Appointed Counsel form indicating he
7 has contacted at two attorneys regarding this case and was advised they would not represent him
8 because of a defaulted student loan. Dkt. 6. Plaintiff provides no reasons explaining why he
9 needs court-appointed counsel. *Id.* The Court notes this case does not involve complex facts or
10 law, and Plaintiff has not shown an inability to articulate the factual basis of his claims in a
11 fashion understandable to the Court. Plaintiff has also not shown he is likely to succeed on the
12 merits of his case.

13 As Plaintiff has not shown exceptional circumstances exist in this case, Plaintiff’s
14 Application for Court-Appointed Counsel is denied without prejudice.

15 Dated this 27th day of October, 2017.

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18 David W. Christel
19 United States Magistrate Judge
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