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4 UNITED STATES DISTRICT COURT
5 FOR THE WESTERN DISTRICT OF WASHINGTON
6 AT SEATTLE

7 CRAIG PEDEN,

Case No. C17-1610RSM

8 Plaintiff,

9 ORDER DENYING TRO AND
10 DISMISSING PLAINTIFF'S CLAIMS

11 v.

12 CATHOLIC COMMUNITY SERVICES OF
13 WESTERN WASHINGTON, *et al.*,

14 Defendants.

15 *Pro Se* Plaintiff Craig Peden filed his initial Complaint on October 30, 2017. Dkt. #3. At
16 the same time, Plaintiff filed an Emergency Motion for Injunction, which the Court construed as
17 a Motion for Temporary Restraining Order (“TRO”), and ultimately denied. Dkts. #4 and #5.
18 Summonses have not yet been issued.
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20 Plaintiff alleged in his initial Complaint that Catholic Charities agreed to pay his rent for
21 October through the end of his lease in December 2017. Dkt. #3. He also appeared to allege
22 some type of retaliation and discrimination, although he did not allege that he is a member of any
23 protected class, nor did he provide the details of such allegations. *See id.* Plaintiff apparently
24 received a Notice of Belief of Abandonment related to an apartment in Everett, which also noted
25 that his lease would be terminated on October 31, 2017, unless he informed the manager of his
26 intent not to abandon his property, an address at which he could be served with certified mail,
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1 and his current rent due. Dkt. #3, *Attachment*. The circumstances surrounding Plaintiff's
2 allegations and request were not apparent from the initial Complaint or the motion itself.

3 On October 31, 2017, the Court directed Plaintiff to file an Amended Complaint to cure
4 certain deficiencies. Dkt. #6. Plaintiff filed his Amended Complaint on November 21, 2017.
5 Dkt. #7. Plaintiff named five new Defendants in the Amended Complaint, and appeared to
6 abandon his prior legal claims. *See* Dkt. #7 at 2-4. Instead, he raises allegations of federal Due
7 Process and Civil Rights violations. Dkt. #7 at 3. He also appeared to raise allegations of federal
8 housing violations. *Id.* Plaintiff made general averments of harassment, defamation,
9 stigmatization, and discrimination on the basis that he is a divorced, single, bisexual male with
10 AIDS, but no specifics were provided. *Id.* at 6. His allegations appeared to cover a time period
11 between 2013 and 2017. *Id.* Because Mr. Peden failed to explain how each of the Defendants
12 had violated any federal law, and failed to explain why some of his actions were not barred by
13 the applicable statutes of limitations, the Court directed Mr. Peden to file a Second Amended
14 Complaint. Dkt. #8. Mr. Peden did not comply with that Order. Instead, on February 2, 2018,
15 Mr. Peden filed a second Motion for Temporary Restraining Order and Injunction and a Motion
16 to Appoint Counsel. Dkts. #9 and #10.
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20 As with Mr. Peden's previous filings, the instant motion suffers from numerous
21 deficiencies. Indeed, it is not clear what relief Mr. Peden seeks through the instant motion,
22 although it appears he may be seeking relief from an eviction in Everett, WA, and relief from a
23 lien sale of personal property held in a storage unit in California. *See* Dkt. #9. In order to succeed
24 on a motion for temporary restraining order ("TRO"), the moving party must show: (1) a
25 likelihood of success on the merits; (2) a likelihood of irreparable harm to the moving party in
26 the absence of preliminary relief; (3) that a balance of equities tips in the favor of the moving
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1 party; and (4) that an injunction is in the public interest. *Winter v. Natural Res. Def. Council,*
2 *Inc.*, 555 U.S. 7, 20, 129 S. Ct. 365, 172 L. Ed. 2d 249 (2008). The Ninth Circuit employs a
3 “sliding scale” approach, according to which these elements are balanced, “so that a stronger
4 showing of one element may offset a weaker showing of another.” *Alliance for the Wild Rockies*
5 *v. Cottrell*, 632 F.3d 1127, 1131 (9th Cir. 2011).

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7 The Court finds that Plaintiff has presented insufficient evidence to warrant granting a
8 TRO in this case. First, it is not clear that Defendant has been served by Plaintiff with the instant
9 Motion or even his lawsuit. *See* Local Rule 65(b)(1) (“Motions for temporary restraining orders
10 without notice to and an opportunity to be heard by the adverse party are disfavored and will
11 rarely be granted.”). In fact, the Defendant named on the motion is not one that was ever named
12 in Mr. Peden’s Complaint. *Compare* Dkts. #9 (naming Portsmouth Apartments, LLC, as
13 Defendant) *with* #7 (naming Catholic Community Services of Western Washington, Lifelong,
14 Everett Housing Authority, Madison Clinic, Harborview Medical Center, Senior Terrace
15 Apartments as Defendants).

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17 Second, even if Defendant had received notice, the Court finds that Plaintiff has failed to
18 meet his burden of demonstrating a likelihood of success on the merits in this case. Indeed,
19 Plaintiff provides no legal argument in support of his position, and the Court cannot adequately
20 determine the basis of his claims. Further, Mr. Peden fails to explain how the Defendant has
21 violated any federal law, and fails to explain why some of the alleged actions are not barred by
22 the applicable statutes of limitations.
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25 Accordingly, the Court hereby finds and ORDERS:

- 26 1. Plaintiff’s Motion for Temporary Restraining Order and Injunction (Dkt. #9) is
27 DENIED.
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2. Plaintiff's Motion for Appointment of Counsel (Dkt. #10) is DENIED. In civil cases, the appointment of counsel to a *pro se* litigant "is a privilege and not a right." *United States ex. Rel. Gardner v. Madden*, 352 F.2d 792, 793 (9th Cir. 1965) (citation omitted). "Appointment of counsel should be allowed only in exceptional cases." *Id.* (citing *Weller v. Dickson*, 314 F.2d 598 (9th Cir. 1963)). A court must consider together "both the likelihood of success on the merits and the ability of the petitioner to articulate his claims *pro se* in light of the complexity of the legal issues involved." *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983). At this stage of the litigation, the Court cannot find that Plaintiff is entitled to appointment of counsel. It does not yet appear that any exceptional circumstances exist, and there is no record before the Court that would allow the Court to examine whether Plaintiff's claims appear to have merit.

3. On November 27, 2017, Plaintiff was directed to file a Second Amended Complaint within 21 days of the Court's Order to remedy certain jurisdictional deficiencies. Plaintiff failed to file such a complaint. Nothing in the current record demonstrates proper jurisdiction in this Court. Accordingly, the Court DISMISSES Plaintiff's claims without prejudice, and this case is now CLOSED.

4. The Clerk shall send a copy of this Order to Mr. Peden at 1425 Broadway, #232, Seattle, WA 98122.

DATED this 5 day of February, 2018.



RICARDO S. MARTINEZ
CHIEF UNITED STATES DISTRICT JUDGE