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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

KEENAN BYRD,

Plaintiff,

v.

SEATTLE POLICE OFFICER BONESTEEL,

Defendants.

Case No. C18-0215-RSM-MAT

ORDER DENYING PLAINTIFF’S
MOTION FOR APPOINTMENT OF
COUNSEL

This is a civil rights action brought under 42 U.S.C. § 1983. This matter comes before the Court at the present time on plaintiff’s motion for appointment of counsel. The Court, having reviewed plaintiff’s motion, and the balance of the record, hereby finds and ORDERS as follows:

(1) Plaintiff’s motion for appointment of counsel (Dkt. 16) is DENIED. There is no right to have counsel appointed in cases brought under 42 U.S.C. § 1983. Although the Court, under 28 U.S.C. § 1915(e)(1), can request counsel to represent a party proceeding *in forma pauperis*, the Court may do so only in exceptional circumstances. *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986); *Franklin v. Murphy*, 745 F.2d 1221, 1236 (9th Cir. 1984); *Aldabe v. Aldabe*, 616 F.2d 1089 (9th Cir. 1980). A finding of exceptional circumstances requires an evaluation of both the likelihood of success on the merits and the ability of the

1 plaintiff to articulate his claims pro se in light of the complexity of the legal issues involved.
2 *Wilborn*, 789 F.2d at 1331.


3 Plaintiff argues in his motion that the interests of justice would be best served by
4 appointment of counsel in this matter because his classification level interferes with his ability to
5 access a law library. Plaintiff claims that because of his MI2 classification he is housed in a
6 minimum security unit which does not have a law library, and that in order to use a law library
7 he must be temporarily transferred to another prison unit. Plaintiff asserts that such transfers
8 involve a time consuming process which could potentially inhibit his ability to meet Court
9 deadlines. He also asserts that the need for such transfers will cause him to lose his prison job
10 and will prevent him from going to school. Finally, plaintiff cites to the difficulty of contacting
11 witnesses and conducting discovery while incarcerated as justification for appointing counsel.

12 Though the process plaintiff describes for accessing the law library is cumbersome, it
13 should not preclude him from effectively litigating this case. The Court can make necessary
14 adjustments to deadlines, within reason, to accommodate plaintiff's library access concerns. The
15 fact that plaintiff may have to forego prison employment and educational opportunities in order
16 to litigate this case is unfortunate, but is not sufficient to justify appointment of counsel.
17 Likewise, the fact that plaintiff's incarceration will make contacting witnesses and conducting
18 discovery more difficult, a challenge faced by many prisoners who elect to litigate actions such
19 as this one, is not sufficient to justify appointment of counsel.

20 Based on the information available to the Court at this juncture, this Court must conclude
21 that plaintiff has not demonstrated his case involves exceptional circumstances which warrant the
22 appointment of counsel. Plaintiff's motion is therefore denied without prejudice to plaintiff
23 renewing his request at a later time should circumstances change.

1 (2) The Clerk is directed to send copies of this Order to plaintiff, to counsel for
2 defendants, and to the Honorable Ricardo S. Martinez.

3 DATED this 20th day of August, 2018.

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6 Mary Alice Theiler
7 United States Magistrate Judge
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