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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

RICHARD MARSHALL BOWMAN,

Plaintiff,

v.

ELDON VAIL, *et al.*,

Defendants.

No. 09-5510 FDB/JRC

ORDER

This 42 U.S.C. § 1983 Civil Rights action has been referred to the undersigned Magistrate Judge pursuant to Title 28 U.S.C. §§ 636(b)(1)(A) and 636(b)(1)(B) and Local Magistrate Judges’ Rules MJR 1, MJR 3, and MJR 4. Before the court is plaintiff’s motion asking for appointment of counsel (Dkt. # 6).

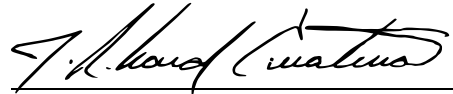
There is no right to have counsel appointed in cases brought under 42 U.S.C. § 1983. Although the court, under 28 U.S.C. § 1915(e) (1), can request counsel to represent a party, the court may do so only in exceptional circumstances. Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th Cir. 1986); Franklin 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 plaintiff to articulate his claims *pro se* in light of the complexity of the legal issues involved. Wilborn, 789 F.2d at 1331.

ORDER - 1

1 Plaintiff has demonstrated an adequate ability to articulate his claims *pro se* (Dkt # 9).
2 This case is not in a posture where the court can determine the likelihood of success on the
3 merits. Plaintiff's Motion to Appoint Counsel (Dkt. # 6) is **DENIED**.

4 The Clerk's Office is directed to send plaintiff a copy of this order and remove Dkt. # 6
5 from the Court's calendar.

6 DATED this 20th day of October, 2009.
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11 J. Richard Creatura
12 United States Magistrate Judge
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