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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT TACOMA

9 BURT BOBBY DANIELS,

10 Plaintiff,

v.

11 ASSOCIATE SUPERINTENDENT HARRIS,
12 *et al.*,

13 Defendants.

No. 09-5542RJB/JRC

ORDER

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15 This 42 U.S.C. § 1983 Civil Rights action has been referred to the undersigned
16 Magistrate Judge pursuant to Title 28 U.S.C. §§ 636(b)(1)(A) and 636(b)(1)(B) and Local
17 Magistrate Judges' Rules MJR 1, MJR 3, and MJR 4. Before the court is plaintiff's motion
18 asking for appointment of counsel (Dkt. # 7).

19 There is no right to have counsel appointed in cases brought pursuant to 42 U.S.C. §
20 1983. Although the court can request counsel to represent a party pursuant to 28 U.S.C. §
21 1915(e) (1), the court may do so only in exceptional circumstances. Wilborn v. Escalderon, 789
22 F.2d 1328, 1331 (9th Cir. 1986); Franklin v. Murphy, 745 F.2d 1221, 1236 (9th Cir. 1984);
23 Aldabe v. Aldabe, 616 F.2d 1089 (9th Cir. 1980). A finding of exceptional circumstances
24 requires an evaluation of both the likelihood of success on the merits and the ability of the
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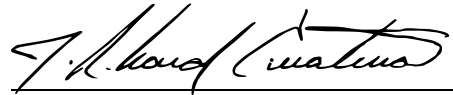
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1 plaintiff to articulate his claims *pro se* in light of the complexity of the legal issues involved.
2 Wilborn, 789 F.2d at 1331.

3 Plaintiff has demonstrated an adequate ability to articulate his claims *pro se* (Dkt # 5).
4 This case is not in a posture where the court can determine the likelihood of success on the
5 merits. Plaintiff's Motion to Appoint Counsel (Dkt. # 7) is **DENIED**.

6 The Clerk's Office is directed to send plaintiff a copy of this order and remove (Dkt. # 7)
7 from the Court's calendar.
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9 DATED this 10th day of November, 2009.

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12 J. Richard Creatura
13 United States Magistrate Judge
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