UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

KEVIN A BROWN,

Plaintiff,

v.

MARK SCHNOOR et al.,

Defendant.

CASE NO. C14-5099 RJB-JRC

ORDER DENYING PLAINTIFF'S MOTION FOR APPOINTMENT OF COUNSEL

The District Court has referred this 42 U.S.C. §1983 civil rights action to Magistrate Judge J. Richard Creatura. The Court's authority for the referral is 28 U.S.C. §§ 636(b)(1)(A) and (B) and Local Magistrate Judge Rules MJR 1, MJR 3, and MJR 4.

Plaintiff asks the Court to appoint counsel to represent him in this matter (Dkt. 19). There is no right to have counsel appointed in cases brought pursuant to 42 U.S.C. § 1983. Although the Court can request counsel to represent a party, 28 U.S.C. § 1915(e)(1), 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 the Court to evaluate both the likelihood of success on

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

Plaintiff has articulated a viable retaliation claim against several persons. However, discovery is just beginning and plaintiff has not shown a likelihood of success on the merits. Plaintiff has articulated his claims quite well and in response to counsel's argument that he does not show a likelihood of success on the merits, plaintiff cites Fed. R. Civ. P. 12 (b) and argues that there is a mechanism in place to test the sufficiency of a complaint. Thus, as defendants note, plaintiff is able to "indentify relevant court rules and make arguments based on them." (Dkt. 20, p. 2). Plaintiff has failed to show that exceptional circumstances warrant appointment of counsel in this case. The Court denies his motion for appointment of counsel.

Dated this 4th day of September, 2014.

J. Richard Creatura
United States Magistrate Judge