

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JAY GREER,

Plaintiff,

v.

PATRICK GLEBE, LYLE MORSE, DENIS
HARMON, KEN ERB, ROHRER, STELLA
JENNINGS,

Defendants.

CASE NO. C14-5657 BHS-JRC

ORDER

The District Court has referred this 42 U.S.C. § 1983 civil rights action to United States Magistrate Judge J. Richard Creatura pursuant to 28 U.S.C. § 636(b)(1)(A) and (B), and local Magistrate Judge Rules MJR1, MJR3 and MJR4.

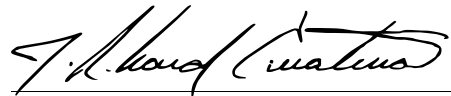
Currently before the Court is plaintiff’s motion for appointment of counsel (*see* Dkt. 21). There is no right to have counsel appointed in cases brought pursuant to 42 U.S.C. § 1983. The Court has authority to request that counsel represent a party. *See* 28 U.S.C. § 1915(e)(1). To make the request, the Court must find exceptional circumstances. *See Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986); *Franklin v. Murphy*, 745 F.2d 1221, 1236 (9th Cir. 1984);

1 *Aldabe v. Aldabe*, 616 F.2d 1089 (9th Cir. 1980). A finding of exceptional circumstances
2 requires the Court to evaluate both the likelihood of success on the merits and the ability of
3 plaintiff to articulate his claims pro se in light of the complexity of the legal issues involved. *See*
4 *Wilborn*, 789 F.2d at 1331.

5 Plaintiff alleges that defendants placed him in danger by “labeling him a snitch” after
6 plaintiff had stopped a fight between two other inmates and reported the incident (Dkt. 10).
7 Plaintiff has adequately articulated a claim under the Eighth Amendment. While the claim may
8 have merit, it is not possible to determine plaintiff’s likelihood of success at this point in the
9 litigation. Defendants have filed an answer (*see* Dkt. 19). The Court has entered a scheduling
10 order (*see* Dkt. 20).

11 Plaintiff indicates he is having trouble getting discovery, but he does not show that he has
12 served any discovery on defendants (*see* Dkt. 21). Plaintiff must follow the Fed. R. Civ. P. Rules
13 27 through 37 in order to obtain discovery. Because plaintiff has demonstrated his ability to
14 articulate his claims and because there are no exceptional circumstances compelling the Court to
15 appoint counsel at this time, the Court denies plaintiff’s motion for appointment of counsel
16 without prejudice.

17 Dated this 20th day of April, 2015.

18
19 

20 J. Richard Creatura
21 United States Magistrate Judge
22
23
24