

1  
2  
3  
4  
5  
6  
7  
8 UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
9 AT TACOMA

10 SYLVESTER JAMES MAHONE,

11 Plaintiff,

12 v.

13 PAT MCCARTHY, PAUL PASTOR,  
14 EDDIE PARKER, BALDEROMA,  
MARVIN SPENCER, MARTHA KARR,  
15 DANIELS, KATHY MILLER, CARN.

16 Defendants.

CASE NO. C14-5812 BHS-JRC

ORDER DENYING PLAINTIFF'S  
MOTION FOR APPOINTMENT OF  
COUNSEL

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

20 Currently before the Court is plaintiff's motion for appointment of counsel (Dkt. 6).  
21 Plaintiff states that the action is complex and that he is an inmate confined in the segregation unit  
22 of the Pierce County Jail (Dkt. 6). Plaintiff has a degree as a paralegal (Dkt. 6). Defendants  
23 oppose plaintiff's motion stating that plaintiff is being held on new criminal charges resulting  
24 from allegedly threatening a corrections officer and his family. Defendants note that plaintiff is

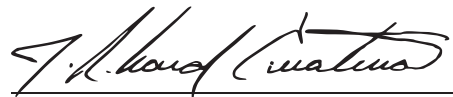
1 currently representing himself in his criminal matter and is far more qualified and capable than  
2 the “typical pro se inmate litigant.” (Dkt. 22, p. 3).

3           There is no right to have counsel appointed in cases brought pursuant to 42 U.S.C. § 1983.  
4 Although the Court can request counsel to represent a party, 28 U.S.C. § 1915(e)(1), the Court may  
5 do so only in exceptional circumstances. *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir.  
6 1986); *Franklin v. Murphy*, 745 F.2d 1221, 1236 (9th Cir. 1984); *Aldabe v. Aldabe*, 616 F.2d 1089  
7 (9th Cir. 1980). A finding of exceptional circumstances requires the Court to evaluate both the  
8 likelihood of success on the merits and the ability of plaintiff to articulate his claims pro se in light of  
9 the complexity of the legal issues involved. *Wilborn*, 789 F.2d at 1331.

10           Plaintiff is capable of articulating his claims. The Court record reflects that he is conducting  
11 discovery (Dkt. 19 request for additional time to respond to discovery requests). The Court is not  
12 currently in a position to determine plaintiff’s likelihood of success on the merits, but that is due to  
13 the early status of the case and not plaintiff’s inability to articulate his claims. The Court does not  
14 find exceptional circumstances that would warrant appointment of counsel at this time.

15           Accordingly, the Court denies plaintiff’s motion for appointment of counsel.

16           Dated this 28<sup>th</sup> day of January, 2015.

17 

18 J. Richard Creatura  
19 United States Magistrate Judge