

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

8 NATHAN R. ALICEA,

9 Plaintiff,

10 v.

11 SCORE JAIL, et al.,

12 Defendants.

CASE NO. C16-5153 RBL-KLS

ORDER DENYING PLAINTIFF'S  
MOTION FOR THE APPOINTMENT  
OF COUNSEL

13 Plaintiff Nathan R. Alicea moves for the appointment of counsel. Dkt. 8. Having  
14 carefully reviewed the motion and balance of the record, the Court finds that the motion should  
15 be denied.

16 **DISCUSSION**

17 No constitutional right exists to appointed counsel in a § 1983 action. *Storseth v.*  
18 *Spellman*, 654 F.2d 1349, 1353 (9th Cir. 1981). *See also United States v. \$292,888.04 in U.S.*  
19 *Currency*, 54 F.3d 564, 569 (9th Cir. 1995) (“[a]ppointment of counsel under this section is  
20 discretionary, not mandatory.”) However, in “exceptional circumstances,” a district court may  
21 appoint counsel for indigent civil litigants pursuant to 28 U.S.C. § 1915(e)(1) (formerly 28  
22 U.S.C. § 1915(d)). *Rand v. Roland*, 113 F.3d 1520, 1525 (9th Cir. 1997), *overruled on other*  
23

ORDER DENYING PLAINTIFF'S MOTION  
FOR THE APPOINTMENT OF COUNSEL - 1

1 grounds, 154 F.3d 952 (9th Cir. 1998) (emphasis supplied.) To decide whether exceptional  
2 circumstances exist, the court must evaluate both “the likelihood of success on the merits [and]  
3 the ability of the petitioner to articulate his claims *pro se* in light of the complexity of the legal  
4 issues involved.” *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986) (quoting  
5 *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983)). A plaintiff must plead facts that show he  
6 has an insufficient grasp of his case or the legal issue involved and an inadequate ability to  
7 articulate the factual basis of his claim. *Agyeman v. Corrections Corp. of America*, 390 F.3d  
8 1101, 1103 (9<sup>th</sup> Cir. 2004).

9 Mr. Alicea requests the appointment of counsel because he is indigent. Dkt. 8. This case  
10 does not involve complex facts or law and Mr. Alicea has shown an ability to articulate his  
11 claims in a clear fashion understandable to the Court. In addition, Mr. Alicea does not show that  
12 he is likely to succeed on the merits of his case.

13 Accordingly, it is **ORDERED**:

14 (1) Plaintiff’s motion for counsel (Dkt. 8) is **DENIED**.

15 (2) The Clerk shall send a copy of this Order to Plaintiff and counsel for Defendants.

16 Dated this 31<sup>st</sup> day of May, 2016.

17  
18 

19 Karen L. Strombom  
20 United States Magistrate Judge  
21  
22  
23