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8 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
9 AT TACOMA

10 JOSEPH FLORES SANCHEZ,

11 Plaintiff,

12 v.

13 JOHN DOE, JOHN DOE,
WASHINGTON STATE
14 DEPARTMENT OF CORRECTIONS,
JOHN DOE, JANE DOE, MARGARET
15 GILBERT, JANE 1-3 DOE, DENNIS
CHERRY, JOHN DOE CORNWELL,

16 Defendants.
17

CASE NO. 3:16-CV-05201-BHS-DWC

ORDER DENYING MOTION FOR
APPOINTMENT OF COUNSEL

18 The District Court has referred this 42 U.S.C. § 1983 action to United States Magistrate
19 Judge David W. Christel. Currently pending in this action is Plaintiff's Motion for Appointment
20 of Counsel ("Motion"). Dkt. 35.¹ No constitutional right to appointed counsel exists in a § 1983
21 action. *Storseth v. Spellman*, 654 F.2d 1349, 1353 (9th Cir. 1981); *see United States v.*

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23 ¹This is Plaintiff's second Motion requesting the appointment of counsel. *See* Dkt. 8. The first Motion was
denied on April 22, 2016. Dkt. 10. Plaintiff moved for reconsideration of the Order denying his first Motion for
Appointment of Counsel. Dkt. 11. The Motion for Reconsideration was denied on May 5, 2016. Dkt. 15.

24 Also pending before the Court is Defendants' Motion for Summary Judgment, which is ready for the
Court's consideration on November 25, 2016. *See* Dkt. 23, 41.

1 \$292,888.04 in U.S. Currency, 54 F.3d 564, 569 (9th Cir. 1995) (“[a]ppointment of counsel
2 under this section is discretionary, not mandatory”). However, in “exceptional circumstances,” a
3 district court may appoint counsel for indigent civil litigants pursuant to 28 U.S.C. § 1915(e)(1)
4 (formerly 28 U.S.C. § 1915(d)). *Rand v. Roland*, 113F.3d 1520, 1525 (9th Cir. 1997), *overruled*
5 *on other grounds*, 154 F.3d 952 (9th Cir. 1998). To decide whether exceptional circumstances
6 exist, the Court must evaluate both “the likelihood of success on the merits [and] the ability of
7 the [plaintiff] to articulate his claims *pro se* in light of the complexity of the legal issues
8 involved.” *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986) (*quoting Weygandt v.*
9 *Look*, 718 F.2d 952, 954 (9th Cir. 1983)). A plaintiff must plead facts showing he has an
10 insufficient grasp of his case or the legal issues involved and an inadequate ability to articulate
11 the factual basis of his claims. *Agyeman v. Corrections Corp. of America*, 390 F.3d 1101, 1103
12 (9th Cir. 2004).

13 Plaintiff states he has no money, home, address, or lawyer, is disabled and therefore
14 should be appointed counsel Dkt. 35. Plaintiff has not shown, nor does the Court find, this case
15 involves complex facts or law. Plaintiff has also not shown an inability to articulate the factual
16 basis of his claims in a fashion understandable to the Court or shown he is likely to succeed on
17 the merits of his case. The Court has ordered Plaintiff’s Amended Complaint be served, but has
18 not determined if Plaintiff’s constitutional rights were violated. Accordingly, Plaintiff’s Motion
19 is denied without prejudice.

20 Dated this 28th day of October, 2016.

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22 _____
23 David W. Christel
24 United States Magistrate Judge