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4 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
5 AT TACOMA

6 RONALD JAY BIANCHI,

7 Plaintiff,

8 v.

9 DEPARTMENT OF CORRECTIONS, et
al,

10 Defendants.

Case No. 3:16-cv-05390-BHS-TLF

ORDER DENYING PLAINTIFF'S
MOTION FOR APPOINTMENT OF
COUNSEL

11 This matter comes before the Court on plaintiff's motion for appointment of counsel. Dkt.
12 23. Having carefully considered that motion and balance of the record, the Court finds it should
13 be denied.

14 No constitutional right exists to appointed counsel in a § 1983 action. *Storseth v.*
15 *Spellman*, 654 F.2d 1349, 1353 (9th Cir. 1981); *see also United States v. \$292,888.04 in U.S.*
16 *Currency*, 54 F.3d 564, 569 (9th Cir. 1995) (“[a]ppointment of counsel under this section is
17 discretionary, not mandatory.”). In “exceptional circumstances,” a district court may appoint
18 counsel for indigent civil litigants pursuant to 28 U.S.C. § 1915(e)(1)). *Rand v. Roland*, 113 F.3d
19 1520, 1525 (9th Cir. 1997), *overruled on other grounds*, 154 F.3d 952 (9th Cir. 1998) (emphasis
20 supplied.)

21 To decide whether exceptional circumstances exist, the Court must evaluate both “the
22 likelihood of success on the merits [and] the ability of the petitioner to articulate his claims *pro*
23 *se* in light of the complexity of the legal issues involved” *Wilborn v. Escalderon*, 789 F.2d 1328,
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1 1331 (9th Cir. 1986) (quoting *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983)). A plaintiff
2 must plead facts that show he has an insufficient grasp of his case or the legal issue involved, and
3 an inadequate ability to articulate the factual basis of his claim. *Agyeman v. Corrections Corp. of*
4 *America*, 390 F.3d 1101, 1103 (9th Cir. 2004). That a *pro se* litigant may be better served with
5 the assistance of counsel is not the test. *Rand*, 113 F.3d at 1525.

6 Plaintiff requests appointment of counsel because he only has a GED for education and
7 no legal training. However, these bases for seeking appointment of counsel are factors that are
8 applicable to all inmates, and thus do not provide a valid basis for such appointment. *Wood v.*
9 *Housewright*, 900 F.2d 1332, 1334-36 (9th Cir. 1990). Plaintiff also states is having a hard time
10 articulating his claim *pro se* in light of the complexity of the legal issues involved in this case.
11 The response to defendants' motion for summary judgment, however, shows that plaintiff is able
12 to articulate his claim. In addition, plaintiff has not shown the issues in this case are necessarily
13 too complex for him to proceed *pro se*. As indicated by the Report and Recommendation issued
14 the same date herewith granting defendants' motion for summary judgment, plaintiff has not
15 shown a likelihood of success on the merits.

16 Accordingly, plaintiff's motion for appointment of counsel (Dkt. 23) is DENIED. The
17 Clerk shall send a copy of this Order to plaintiff and counsel for defendants.

18 Dated this 1st day of December, 2017.

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22 Theresa L. Fricke
23 Theresa L. Fricke
24 United States Magistrate Judge
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