

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

DUWANE SMITH,

Plaintiff,

v.

CAROLYN W COLVIN,

Defendant.

CASE NO. C17-5025-RBL

ORDER GRANTING MOTION TO
PROCEED IFP AND DENYING
MOTION FOR APPOINTMENT OF
COUNSEL

THIS MATTER is before the Court on Plaintiff Smith's Motion to proceed *in forma pauperis*, and his included Motion for the appointment of counsel. [Dkt. #1] The Motion to proceed *in forma pauperis* is **GRANTED**.

It is the responsibility of plaintiff and plaintiff's attorney to properly serve copies of the complaint along with appropriate summonses as required by Rule 4 of the Federal Rules of Civil Procedure.

An indigent plaintiff in a civil case has no constitutional right to counsel unless he may lose his physical liberty if he loses the litigation. *See Lassiter v. Dept. of Social Servs.*, 452 U.S. 18, 25 (1981). However, pursuant to 28 U.S.C. § 1915(e)(1), the Court has discretion to appoint

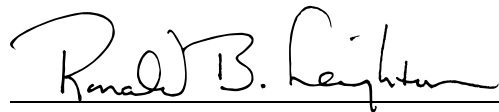
1 counsel for indigent litigants who are proceeding *in forma pauperis*. *United States v.*
2 *\$292,888.04 in U.S. Currency*, 54 F.3d 564, 569 (9th Cir. 1995).

3 The Court will appoint counsel only under “exceptional circumstances.” *Id.*; *Wilborn v.*
4 *Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986). “A finding of exceptional circumstances
5 requires an evaluation of both the likelihood of success on the merits and the ability of the
6 plaintiff to articulate his claims *pro se* in light of the complexity of the legal issues involved.”
7 *Wilborn*, 789 F.2d at 1331 (internal quotations omitted). These factors must be viewed together
8 before reaching a decision on whether to appoint counsel under § 1915(e)(1). *Id.*

9 The Plaintiff has articulated his claims, but he has not met the “exceptional
10 circumstances” standard for the appointment of counsel at public expense. He has not
11 demonstrated that he is likely to succeed on the merits of his claim. The Motion for Appointment
12 of Counsel is **DENIED**.

13 IT IS SO ORDERED.

14 Dated this 25th day of January, 2017.

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17 Ronald B. Leighton
18 United States District Judge
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