UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JUSTIN E. LEWIS,

Plaintiff,

v.

RYAN PUGH,

Defendants.

CASE NO. C17-5227 RJB-TLF

ORDER DENYING MOTION FOR COUNSEL

Before the Court is Plaintiff Justin Lewis's motion for appointment of counsel. Dkt. 14. Mr. Lewis states that he requires assistance of counsel because he is indigent and the case will require discovery of surveillance documents and depositions of a number of witnesses. *Id.*

DISCUSSION

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

involved. *Wilborn*, 789 F.2d at 1331. Neither of these factors is dispositive and both must be viewed together before reaching a decision on request of counsel under Section 1915(d). *Id.*

Plaintiff has demonstrated an adequate ability to articulate his claims *pro se* but has not demonstrated that the issues involved in this case are complex. Plaintiff's incarceration and limited legal training are not exceptional factors constituting exceptional circumstances that warrant the appointment of counsel. Rather, they are the type of difficulties encountered by many pro se litigants. Plaintiff has also not shown a likelihood of success on the merits but merely restates the allegations of his complaint. *See, e.g.*, *Wilborn*, 789 F.2d at 1331.

Accordingly, it is **ORDERED:**

(1) Plaintiff's motion for the appointment of counsel (Dkt. 14) is **DENIED.**

(2) The Clerk of Court is directed to send a copy of this Order to plaintiff and to counsel for defendants.

Dated this 5th day of July, 2017.

Theresa L. Fricke
United States Magistrate Judge