

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

GARY CASTERLOW-BEY,

Plaintiff,

V.

ANDREA JARMON, DEPARTMENT OF
ASSIGNED COUNSEL,

Defendants.

Case No. C17-5647 BHS-TLF

ORDER DENYING MOTION FOR
APPOINTED COUNSEL

This matter comes before the Court on plaintiff's motion for court-appointed counsel.

Dkt. 6. The Court finds that the appointment of counsel is not appropriate at this time.

No constitutional right to appointed counsel exists in a § 1983 action. *Storseth v.*

Spellman, 654 F.2d 1349, 1353 (9th Cir. 1981); see *United States v. \$292,888.04 in U.S.*

Currency, 54 F.3d 564, 569 (9th Cir. 1995) (“[a]ppointment of counsel under this section is

discretionary, not mandatory"). However, in "exceptional circumstances," a district court may

appoint counsel for indigent civil litigants pursuant to 28 U.S.C. § 1915(e)(1) (formerly 28

¹¹ U.S.C. § 1915(d)). *Band v. Roland*, 113 F.3d 1520, 1525 (9th Cir. 1997), overruled on other grounds, *Shelby County, Tennessee v. Holder*, 570 U.S. 519 (2013).

¹⁵ *grounds*, 154 F.3d 952 (9th Cir. 1998). To decide whether exceptional circumstances exist, the

Court must evaluate 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 v. Escalderon, 789 F.2d 1328, 1331 (8th Cir. 1986) (citing *Waymard v. Lock*, 718

E 2d 952, 954 (9th Cir. 1983)). A plaintiff must plead facts showing he has an insufficient grasp

ORDER DENYING MOTION FOR APPOINTED
COUNSEL - 1

1 of his case or the legal issues involved and an inadequate ability to articulate the factual basis of
2 his claims. *Agyeman v. Corrections Corp. of America*, 390 F.3d 1101, 1103 (9th Cir. 2004).

3 At this time, the plaintiff has not shown, nor does the Court find, this case involves
4 complex facts or law. The plaintiff has also not shown he is likely to succeed on the merits of his
5 case. The Court is directing the plaintiff to amend his complaint because he has not stated a
6 claim for which relief can be granted. Further, the “plaintiff’s incarceration and limited access to
7 legal materials are not exceptional factors constituting exceptional circumstances that warrant the
8 appointment of counsel. Rather, they are the type of difficulties encountered by many pro se
9 litigants.” *Dancer v. Jeske*, 2009 WL 1110432, *1 (W.D. Wash. Apr. 24, 2009). Therefore, the
10 Court finds the plaintiff has failed to show the appointment of counsel is appropriate at this time.

11 Accordingly, the plaintiff’s motion (Dkt. 6) is **DENIED** without prejudice. The Clerk
12 shall send a copy of this Order to the plaintiff.

13 Dated this 29th day of August, 2017.

16 

17 Theresa L. Fricke
18 United States Magistrate Judge