

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 U.S.C. § 1915(d)). *Rand v. Roland*, 113F.3d 1520, 1525 (9th Cir. 1997), *overruled on other 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 (9th Cir. 1986) (*quoting Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983)). A plaintiff must plead facts showing he has an insufficient grasp

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.

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17 Theresa L. Fricke  
18 Theresa L. Fricke  
19 United States Magistrate Judge  
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