

JUL 13 2012

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

NATHANIEL HOSEA,

Plaintiff - Appellant,

v.

MICHAEL B. DONLEY, Secretary of the  
US Air Force,

Defendant - Appellee.

No. 11-16826

D.C. No. 5:11-cv-02892-EJD

MEMORANDUM\*

Appeal from the United States District Court  
for the Northern District of California  
Edward J. Davila, District Judge, Presiding

Submitted June 26, 2012\*\*

Before: SCHROEDER, HAWKINS, and GOULD, Circuit Judges.

Nathaniel Hosea appeals pro se from the district court's denial of his motion for appointment of counsel in his employment discrimination action under 42 U.S.C. § 2000e-16. We have jurisdiction under 28 U.S.C. § 1291. We review for

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\* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

\*\* The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

an abuse of discretion, *Johnson v. U.S. Treasury Dep't*, 27 F.3d 415, 417 (9th Cir. 1994) (per curiam), and we affirm.

The district court did not abuse its discretion in denying Hosea's motion for appointment of counsel because Hosea failed to establish that he satisfied all three factors for appointment of counsel under 42 U.S.C. § 2000e-5(f)(1). *See id.* at 416-17 (listing factors for court to consider and affirming denial of motion to appoint counsel in employment discrimination action).

Hosea's remaining contentions are unpersuasive.

Hosea's letter requesting counsel is construed as a motion for appointment of counsel under 28 U.S.C. § 1915(e)(1) and, so construed, is denied. *See Palmer v. Valdez*, 560 F.3d 965, 970 (9th Cir. 2009) (setting forth "exceptional circumstances" requirement for appointment of counsel for indigent civil litigants).

**AFFIRMED.**