

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

16 Plaintiff Richard Arthur Aguirre, confined in the Kern Valley State Prison (KVSP)
17 in Delano, California, filed this *pro se* civil rights action pursuant to 42 U.S.C. § 1983
18 alleging, *inter alia*, Plaintiff's Eighth Amendment rights were violated when Defendants
19 deprived him of outdoor exercise from September 29, 2007 to July 9, 2008.

20 The action is proceeding only as to Count One of the Second Amended Complaint
21 against Defendants Lopez, Adams, Fields, Jennings and Kavanaugh.

22 The Court's original screening order, filed March 24, 2009, denied Plaintiff's initial
23 motion for appointment of counsel based on the Court's finding that this action presents no
24 "exceptional circumstances" requiring the appointment of counsel and that Plaintiff is in no
25 different a position than other *pro se* litigants who have brought nearly identical claims.

26 Pending before the Court is Plaintiff's renewed motion for appointment of counsel,
27 alleging exceptional circumstances due to Plaintiff's medical condition and medical
28 treatment.

1 Counsel will only be appointed in a civil rights action in which there exists
2 “exceptional circumstances.” *Agyeman v. Corrections Corp. of America*, 390 F.3d 1101,
3 1103 (9th Cir. 2004); *Terrell v. Brewer*, 935 F.3d 1015, 1017 (9th Cir. 1991); *Wilborn v.*
4 *Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986). “A finding of the exceptional
5 circumstances of the plaintiff seeking assistance requires at least an evaluation of the
6 likelihood of the plaintiff’s success on the merits and an evaluation of the plaintiff’s ability
7 to articulate his claims ‘in light of the complexity of the legal issues involved.’” *Agyeman*,
8 390 F.3d at 1103 (citing *Wilborn*, 789 F.2d at 1331 (quoting *Weygandt v. Look*, 718 F.2d
9 952, 954 (9th Cir. 1983)). Plaintiff is able to articulate his claims on the issues presented and
10 his assertions fail to establish the existence of the requisite exceptional circumstances for
11 appointment of counsel. Accordingly, Plaintiff’s renewed motion shall be denied.

12 IT IS ORDERED that Plaintiff’s Renewed Motion for Appointment of Counsel [Doc.
13 28] is DENIED.

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15 DATED this 20th day of July, 2010.

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FRANK R. ZAPATA
United States District Judge