

1 Without a reasonable method of securing and compensating counsel, the Court will seek
2 volunteer counsel only in the most serious and exceptional cases. In determining whether
3 “exceptional circumstances exist, the district court must evaluate both the likelihood of success on the
4 merits [and] the ability of the [plaintiff] to articulate his claims pro se in light of the complexity of the
5 legal issues involved.” Id. (internal quotation marks and citations omitted).

6 In the present case, the Court does find that neither the interests of justice nor exceptional
7 circumstances warrant appointment of counsel at this time. LaMere v. Risley, 827 F.2d 622, 626 (9th
8 Cir. 1987); Terrell v. Brewer, 935 F.2d 1015, 1017 (9th Cir. 1991). Plaintiff requests the Court
9 appoint counsel based upon the following: the complexity of the case; his imprisonment greatly limits
10 his ability to litigate; he is unable to afford counsel; he has no legal education; and the appointment of
11 counsel would “bring forth all tangible pertinent records in discovery.” Mot. at 1-2. Plaintiff is
12 proceeding on an Eighth Amendment claim against Hernandez and Williams. Plaintiff contends
13 Hernandez and Williams should not have placed him on CSW after he passed their metal detector searches
14 and showed them a medical chrono indicating he could not take off his underwear, bend over, or squat for
15 an unclothed body search. The legal issues in this case are not complex, and Plaintiff has adequately
16 litigated this case to date. Although the allegations in Plaintiff’s complaint were sufficient to state a
17 plausible claim for relief, Plaintiff has not shown a likelihood of success on the merits. Indeed,
18 Defendants have filed a motion for summary judgment on the merits of the Plaintiff’s claims, and
19 Plaintiff has filed a lengthy opposition. Thus, it is premature to determine that there is a likelihood of
20 success on the merits.

21 While a pro se litigant may be better served with the assistance of counsel, so long as a pro se
22 litigant, such as Plaintiff in this instance, is able to “articulate his claims against the relative
23 complexity of the matter,” the “exceptional circumstances” which might require the appointment of
24 counsel do not exist. Rand v. Rowland, 113 F.3d at 1525 (finding no abuse of discretion under 28
25 U.S.C. § 1915(e) when district court denied appointment of counsel despite fact that pro se prisoner
26 “may well have fared better-particularly in the realm of discovery and the securing of expert
27 testimony.”) Circumstances common to most prisoners, such as lack of legal education and limited
28 law library access, do not establish exceptional circumstances that warrant a request for voluntary

1 assistance of counsel. Thus, the Court finds that Plaintiff's arguments are not exceptional
2 circumstances warranting the appointment of counsel at this time. Accordingly, Plaintiff second
3 motion for appointment of counsel is DENIED, without prejudice.

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IT IS SO ORDERED.

Dated: June 24, 2020


UNITED STATES MAGISTRATE JUDGE