

1 civil action. *See* 28 U.S.C. § 1915(e)(1) (stating the court has authority to appoint counsel for
2 people unable to afford counsel); *see also United States v. McQuade*, 519 F.2d 1180 (9th Cir.
3 1978) (addressing relevant standard of review for motions to appoint counsel in civil cases) (other
4 citations omitted). However, motions to appoint counsel in civil cases are granted only in
5 “exceptional circumstances.” *Id.* at 1181. The Court may consider many factors to determine if
6 exceptional circumstances warrant appointment of counsel including, but not limited to, proof of
7 indigence, the likelihood of success on the merits, and the ability of the plaintiff to articulate his
8 or her claims *pro se* in light of the complexity of the legal issues involved. *Id.*; *see also Rand v.*
9 *Rowland*, 113 F.3d 1520, 1525 (9th Cir. 1997), *withdrawn in part on other grounds on reh’g en*
10 *banc*, 154 F.2d 952 (9th Cir. 1998).

11 Plaintiff states that he requires appointment of counsel because the claims raised in the
12 complaint are medical in nature and require the testimony of an expert. (Doc. No. 44 at 1).
13 Plaintiff also claims that he has been suffering retaliation by prison staff for filing his federal
14 complaint. (*Id.*). Plaintiff also makes unrelated claims regarding his medication, his hunger
15 strike, and a request for telemedicine care.

16 Prison litigation often involves medical claims, and an extraordinary situation cannot be
17 demonstrated through the “vicissitudes of prison life.” *Chaffer v. Prosper*, 592 F.3d 1046, 1049
18 (9th Cir. 2010). Further, although plaintiff is proceeding *pro se* and is incarcerated, he faces the
19 same obstacles all *pro se* prisoners face. Challenges in litigating a case, such as the need for an
20 expert witness, “are ordinary for prisoners pursuing civil rights claim” and cannot form the basis
21 for appointment of counsel. *Courtney v. Kandel*, 2020 WL 1432991, at *1 (E.D. Cal. Mar. 24,
22 2020). Finally, the Court does not find the issues are “so complex that due process violations will
23 occur absent the presence of counsel.” *Bonin v. Vasquez*, 999 F.2d 425, 428–29 (9th Cir. 1993).


24 Plaintiff has capably filed motions and his complaint has plausibly stated a claim to
25 survive screening and be served on Defendants. Plaintiff has not shown exceptional
26 circumstances that warrant appointment of counsel at this stage of the proceedings. Should this
27 case progress and Plaintiff’s circumstances change so that he is able to demonstrate exceptional
28 circumstances, he may renew his motion for appointment of counsel at that time.

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Accordingly, it is **ORDERED**:

Plaintiff's motion to appoint counsel (Doc. No. 44) is DENIED without prejudice.

Dated: August 23, 2021


HELENA M. BARCH-KUCHTA
UNITED STATES MAGISTRATE JUDGE