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8 UNITED STATES DISTRICT COURT  
9 EASTERN DISTRICT OF CALIFORNIA  
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11 MATTHEW A. LAWRIE,

12 Plaintiff,

13 vs.

14 PFEIFFER, et al.,

15 Defendants.  
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1:21-cv-00724-NONE-GSA-PC

ORDER DENYING MOTION FOR  
APPOINTMENT OF COUNSEL  
(ECF No. 17.)

17 On October 1, 2021, Plaintiff filed a motion seeking the appointment of counsel. Plaintiff  
18 does not have a constitutional right to appointed counsel in this action, Rand v. Rowland, 113  
19 F.3d 1520, 1525 (9th Cir. 1997), and the Court cannot require an attorney to represent Plaintiff  
20 pursuant to 28 U.S.C. § 1915(e)(1). Mallard v. United States District Court for the Southern  
21 District of Iowa, 490 U.S. 296, 298 (1989). However, in certain exceptional circumstances the  
22 Court may request the voluntary assistance of counsel pursuant to section 1915(e)(1). Rand, 113  
23 F.3d at 1525.

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

1 In the present case, the court does not find the required exceptional circumstances. At  
2 this early stage in the proceedings, the court cannot make a determination that plaintiff is likely  
3 to succeed on the merits. Plaintiff's complaint awaits the court's required screening pursuant to  
4 28 U.S.C. § 1915. Thus, to date the court has not found any cognizable claims in Plaintiff's  
5 complaint for which to initiate service of process, and no other parties have yet appeared. The  
6 legal issue in this case, whether Defendants have subjected Plaintiff to adverse conditions of  
7 confinement in violation of the Eighth Amendment, is not complex. Moreover, based on a review  
8 of the record in this case, the court finds that Plaintiff can adequately articulate his claims.  
9 Therefore, Plaintiff's motion shall be denied, without prejudice to renewal of the motion at a later  
10 stage of the proceedings.

11 Accordingly, for the foregoing reasons, Plaintiff's motion for the appointment of counsel  
12 is HEREBY DENIED, without prejudice.

13  
14 IT IS SO ORDERED.

15 Dated: November 16, 2021

/s/ Gary S. Austin  
UNITED STATES MAGISTRATE JUDGE