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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

DANIEL CISNEROS,  
Plaintiff,  
v.  
JUAN MUNIZ, et al.,  
Defendants.

Case No. 1:22-cv-01601-HBK (PC)  
ORDER DENYING PLAINTIFF’S  
RENEWED MOTION FOR APPOINTMENT  
OF COUNSEL  
(Doc. No. 26)

Pending before the Court is Plaintiff’s renewed motion to appoint counsel. (Doc. No. 26). Plaintiff, a prisoner, is proceeding pro se and *in forma pauperis* on his Second Amended Complaint filed September 11, 2023. (Doc. No. 26, “Renewed Motion”). This is Plaintiff’s third motion seeking appointment of counsel and is duplicative of Plaintiff’s previous motion filed on May 3, 2024. (Compare Docs. No. 24 and 26).

The Court denied Plaintiff’s two prior motions seeking appointment of counsel on January 26, 2023, and May 6, 2024. (Docs. Nos. 9, 25). The Court incorporates the law and its findings as set forth in its previous Orders as though set forth at length herein and denies Plaintiff’s Renewed Motion for the same reasons as stated therein. Additionally, the fact that Plaintiff is utilizing the assistance of another inmate to litigate this case does not constitute exceptional circumstances. *See Montano v. Solomon*, No. 2:07-CV-0800 KJN P, 2010 WL 4137476, at \*7 (E.D. Cal. Oct. 19, 2010) (denying appointment of counsel finding no exceptional circumstance where

1 “plaintiff has adequately presented, albeit through another inmate, the salient factual allegations of  
2 this case ... as well as the matters now before the court”). Further and notable here is that while  
3 service was directed on April 30, 2024, no Defendant has yet been served or appeared in this case  
4 and no discovery has yet commenced. Consequently, this case procedurally is at the earliest  
5 stages of litigation, so it is difficult for the Court to determine Plaintiff’s likelihood of success on  
6 the merits. *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986); *see also Reed v.*  
7 *Paramo*, No. 18CV361-JLS (LL), 2020 WL 2767358, at \*1 (S.D. Cal. May 28, 2020) (holding it  
8 was too early to determine plaintiff’s likelihood of success on the merits before fact discovery had  
9 not been completed). Should this case progress and Plaintiff’s circumstances change so that he is  
10 able to demonstrate exceptional circumstances, he may renew his motion for appointment at  
11 counsel at that time.

12 Accordingly, it is **ORDERED**:

13 Plaintiff’s Renewed Motion for Appointment of Counsel (Doc. No. 26) is DENIED.

14  
15 Dated: May 13, 2024

  
HELENA M. BARCH-KUCHTA  
UNITED STATES MAGISTRATE JUDGE