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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 NARCISO RAMIREZ,

12 Plaintiff,

13 v.

14 C. PFEIFFER, et al.

15 Defendants.
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No. 1:23-cv-01554-SAB (PC)

ORDER DENYING PLAINTIFF'S MOTION
FOR APPOINTMENT OF COUNSEL,
WITHOUT PREJUDICE

(ECF No. 7)

17 Plaintiff is proceeding pro se and in forma pauperis in this action filed pursuant to 42
18 U.S.C. § 1983.

19 Currently before the Court is Plaintiff's motion for appointment of counsel, filed
20 November 13, 2023.

21 Plaintiff does not have a constitutional right to appointed counsel in this action, Rand v.
22 Rowland, 113 F.3d 1520, 1525 (9th Cir. 1997), and the court cannot require any attorney to
23 represent plaintiff pursuant to 28 U.S.C. § 1915(e)(1). Mallard v. United States District Court for
24 the Southern District of Iowa, 490 U.S. 296, 298 (1989). However, in certain exceptional
25 circumstances the court may request the voluntary assistance of counsel pursuant to section
26 1915(e)(1). Rand, 113 F.3d at 1525.

27 Without a reasonable method of securing and compensating counsel, the court will seek
28 volunteer counsel only in the most serious and exceptional cases. In determining whether

1 “exceptional circumstances exist, the district court must evaluate both the likelihood of success
2 on the merits [and] the ability of the [plaintiff] to articulate his claims pro se in light of the
3 complexity of the legal issues involved.” Id. (internal quotation marks and citations omitted).

4 In the present case, the court does not find the required exceptional circumstances. Even
5 if it assumed that plaintiff is not well versed in the law and that he has made serious allegations
6 which, if proved, would entitle him to relief, his case is not exceptional. The Court is faced with
7 similar cases almost daily. While the Court recognizes that Plaintiff is at a disadvantage due to
8 his pro se status and his incarceration, the test is not whether Plaintiff would benefit from the
9 appointment of counsel. See Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th Cir. 1986) (“Most
10 actions require development of further facts during litigation and a pro se litigant will seldom be
11 in a position to investigate easily the facts necessary to support the case.”) Although Plaintiff
12 contends that his primary language is Spanish and he is being assisted by two other inmates, such
13 circumstances do not warrant assistance of counsel. the record reflects that Plaintiff is receiving
14 assistance sufficient to allow him to prosecute this litigation, and he is able to articulate his
15 claims, even if it is with the assistance of other inmates. The test is whether exception
16 circumstances exist and here, they do not. In the present case, the Court has yet to screen
17 Plaintiff’s complaint pursuant to 28 U.S.C. ¶ 1915A, and based on a cursory review of the
18 complaint, the Court does not find the required exceptional circumstances. In addition, the Court
19 cannot make a finding that Plaintiff is likely to succeed on the merits. Accordingly, Plaintiff’s
20 motion for the appointment of counsel is denied, without prejudice.¹

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22 IT IS SO ORDERED.

23 Dated: November 14, 2023


UNITED STATES MAGISTRATE JUDGE

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27 ¹ To the extent Plaintiff seeks to amend the complaint, Plaintiff is advised that Federal Rule of Civil Procedure 15
28 provides: “A party may amend its pleading once as matter of course within: (A) 21 days after serving it; or (B) if the
pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or 21 days
after service of a motion under Rule 12(b), (e), or (f), whichever is earlier.” Fed. R. Civ. P. 15(a)(1)(A), (B).