



1 provide him the opportunity to obtain representation equally qualified with the counsel provided  
2 by the state for Defendants. Plaintiff has contacted 5 or more attorneys seeking assistance, with  
3 no luck. (*Id.*)

4 Defendants have not yet been served and have not had the opportunity to respond to  
5 Plaintiff's motion, but the Court finds a response unnecessary. The motion is deemed submitted.  
6 Local Rule 230(1).

7 Plaintiff is informed that he does not have a constitutional right to appointed counsel in  
8 this action, *Rand v. Rowland*, 113 F.3d 1520, 1525 (9th Cir. 1997), *rev'd in part on other*  
9 *grounds*, 154 F.3d 952, 954 n.1 (9th Cir. 1998), and the court cannot require an attorney to  
10 represent plaintiff pursuant to 28 U.S.C. § 1915(e)(1). *Mallard v. U.S. Dist. Court for the S. Dist.*  
11 *of Iowa*, 490 U.S. 296, 298 (1989). However, in certain exceptional circumstances the court may  
12 request the voluntary assistance of counsel pursuant to section 1915(e)(1). *Rand*, 113 F.3d at  
13 1525.

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

19 The Court has considered Plaintiff's request, but does not find the required exceptional  
20 circumstances. Even if it is assumed that Plaintiff has made serious allegations which, if proved,  
21 would entitle him to relief, his case is not exceptional. This Court is faced with similar cases filed  
22 almost daily by prisoners who must also conduct legal research, obtain discovery, and litigate  
23 their cases without the assistance of counsel and with limited access to witnesses or expert  
24 testimony.

25 Furthermore, at this stage in the proceedings, the Court cannot make a determination that  
26 Plaintiff is likely to succeed on the merits. Although Plaintiff's complaint was screened and  
27 found to state cognizable claims, this does not mean that Plaintiff's claims are likely to succeed  
28 on the merits. Finally, based on a review of the record in this case, the Court does not find that

1 Plaintiff cannot adequately articulate his claims.

2 Accordingly, Plaintiff's motion to appoint counsel, (ECF No. 20), is HEREBY DENIED,  
3 without prejudice.

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5 IT IS SO ORDERED.

6 Dated: January 6, 2025

/s/ Barbara A. McAuliffe  
7 UNITED STATES MAGISTRATE JUDGE

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