



1 discretion with respect to appointment of counsel because:

2 Terrell demonstrated sufficient writing ability and legal knowledge to  
3 articulate his claim. The facts he alleged and the issues he raised were not of  
4 substantial complexity. The compelling evidence against Terrell made it  
extremely unlikely that he would succeed on the merits.

5 Id. at 1017.

6 Plaintiff moves for appointment of counsel because he has limited knowledge of  
7 the law, limited education, and has no access to a prison law library due to COVID-19-related  
8 lockdowns. ECF No. 27 at 1–2, 4. He also contends that his case alleging deliberate indifference  
9 to his medical needs, for which he has requested a jury, is complex and will require investigation  
10 and preparation that he cannot undertake in prison, because expert witnesses will be necessary,  
11 and because the prison law library only offers computers and not books (and that he has limited  
12 computer literacy). Id. 1–2. Plaintiff also indicates that the Court should appoint counsel because  
13 he cannot afford an attorney, because Defendants will not admit to any misconduct, and because  
14 the Court has established the merits of his claims in ordering service of his complaint. See id.  
15 Finally, Plaintiff asserts that he is physically disabled and cannot utilize the law library and other  
16 resources to prepare for court. Id. at 1–2, 4

17 The Court recognizes the unique difficulties of litigating from prison, especially  
18 considering COVID-19 lockdowns and Plaintiff’s apparent disabilities. There is no doubt that  
19 limitations on prisoners’ ability to investigate their case and prepare witnesses hinder seamless  
20 trial practice. The Court, however, does not find *exceptional* circumstances warranting a request  
21 by the Court for assistance of counsel. Plaintiff’s inability to investigate his case as easily as he  
22 would like because he is in prison is a circumstance attendant to his own incarceration and that of  
23 numerous other similarly situated prisoners.

24 Plaintiff, moreover, has filed submissions with the Court that efficiently state his  
25 requested relief. His request for appointment of counsel includes citation to authority. Id. at 4.  
26 Review of the docket indicates that Plaintiff has been able to articulate his claims on his own.  
27 Moreover, Plaintiff alleges straightforward Eighth Amendment claims in his complaint. See ECF  
28 No. 1. The factual and legal issues involved in this case are not unusually complex.

1                   Furthermore, although the Court ordered service of several of Plaintiff's Eighth  
2 Amendment claims (ECF No. 15), discovery has not concluded. Defendants' answer only denies  
3 or admits Plaintiff's various allegations. ECF No. 23. The Court cannot say that Plaintiff has  
4 established a particular likelihood of success on the merits at the present stage of this case. For  
5 the purposes of this case, the Court concludes that its conclusion that some of Plaintiff's claims  
6 were appropriate for service does not establish a sufficient likelihood of success warranting  
7 appointment of counsel.

8                   Plaintiff's motion for appointment of counsel (ECF No. 27) is **DENIED**.

9                   IT IS SO ORDERED.

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11 Dated: February 17, 2021



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DENNIS M. COTA  
UNITED STATES MAGISTRATE JUDGE