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**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA**

JULIAN RODRIGUEZ,  
Plaintiff,  
v.  
D. HENRY, et al.,  
Defendants.

No. 2:20-CV-1659-JAM-DMC-P

ORDER

Plaintiff, a prisoner proceeding pro se, brings this civil rights action pursuant to 42 U.S.C. § 1983. Pending before the Court is Plaintiff’s motion for the appointment of counsel and/or an interpreter, ECF No. 3.

The United States Supreme Court has ruled that district courts lack authority to require counsel to represent indigent prisoners in § 1983 cases. See Mallard v. United States Dist. Court, 490 U.S. 296, 298 (1989). In certain exceptional circumstances, the court may request the voluntary assistance of counsel pursuant to 28 U.S.C. § 1915(e)(1). See Terrell v. Brewer, 935 F.2d 1015, 1017 (9th Cir. 1991); Wood v. Housewright, 900 F.2d 1332, 1335-36 (9th Cir. 1990). A finding of “exceptional circumstances” requires an evaluation of both the likelihood of success on the merits and the ability of the plaintiff to articulate his claims on his own in light of the complexity of the legal issues involved. See Terrell, 935 F.2d at 1017. Neither factor is dispositive and both must be viewed together before reaching a decision. See id. In Terrell, the

1 Ninth Circuit concluded the district court did not abuse its discretion with respect to appointment  
2 of counsel because:

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

7 Id. at 1017.

8 In the present case, the Court does not at this time find the required exceptional  
9 circumstances. Plaintiff's motion states in English that he requires the assistance of counsel or an  
10 interpreter because he speaks only Spanish. The Court finds that this is not an exceptional  
11 circumstance given the number of California inmates who do not speak English. Moreover, it  
12 appears from Plaintiff's filing that he has access to the assistance in translations and preparation  
13 of documents. Plaintiff is also advised that he may be able to obtain translation assistance  
14 through the prison's litigation coordinator. Moreover, while the law provides for court-appointed  
15 interpreters in judicial proceedings instituted by the United States, See 28 U.S.C. § 1827(a), the  
16 current action is not such a proceeding and there is no corresponding provision in the law for civil  
17 action instituted by private individuals. Finally, the Eighth Amendment cruel and unusual  
18 punishment claims raised in this action are neither sufficiently legally nor factually complex to  
19 warrant the appointment of counsel.

20 Accordingly, IT IS HEREBY ORDERED that Plaintiff's request for the  
21 appointment of counsel and/or an interpreter, ECF No. 3, is denied.

22  
23 Dated: February 17, 2021



24 DENNIS M. COTA  
25 UNITED STATES MAGISTRATE JUDGE  
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