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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

DENNIS J. ESCOBAR,  
Plaintiff,  
v.  
SCOTT KERMAN, et al.,  
Defendants.

Case No. [17-cv-04238-JD](#)

**ORDER OF DISMISSAL**

Re: Dkt. No. 14

This is a civil rights case filed pro se by a state prisoner. In the initial review order on February 8, 2018, the Court found that plaintiff had failed to state a claim and dismissed the complaint with leave to amend after discussing the deficiencies of the complaint. The twenty-eight days to amend has passed and plaintiff has not filed an amended complaint. Plaintiff did file a motion for the appointment of counsel.

The Ninth Circuit has held that a district court may ask counsel to represent an indigent litigant only in “exceptional circumstances,” the determination of which requires an evaluation of both (1) the likelihood of success on the merits, and (2) the ability of the plaintiff to articulate his claims pro se in light of the complexity of the legal issues involved. *Terrell v. Brewer*, 935 F.2d 1015, 1017 (9th Cir. 1991). Plaintiff has presented his claims adequately, and the issues are not complex. Therefore, the motion to appoint counsel (Docket No. 14) is denied. This case is **DISMISSED** for failure to state a claim as described in the prior order. If plaintiff seeks to

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continue with this case he must file an amended complaint as described in the prior order, as soon as possible, along with a brief motion to reopen.

**IT IS SO ORDERED.**

Dated: June 21, 2018

  
\_\_\_\_\_  
JAMES DONATO  
United States District Judge

1 UNITED STATES DISTRICT COURT  
2 NORTHERN DISTRICT OF CALIFORNIA

3 DENNIS J. ESCOBAR,  
4 Plaintiff,

5 v.

6 SCOTT KERMAN, et al.,  
7 Defendants.  
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Case No. [17-cv-04238-JD](#)

**CERTIFICATE OF SERVICE**

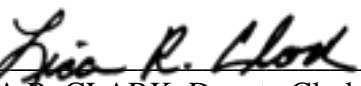
9 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S.  
10 District Court, Northern District of California.

11  
12 That on June 21, 2018, I SERVED a true and correct copy(ies) of the attached, by placing  
13 said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by  
14 depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery  
15 receptacle located in the Clerk's office.  
16

17 Dennis J. Escobar ID: #:E-14934  
18 High Desert State Prison (HDSP)  
19 P.O. Box 3030, B4-120-L  
20 Susanville, CA 96127

21 Dated: June 21, 2018

22  
23 Susan Y. Soong  
24 Clerk, United States District Court

25  
26 By:   
27 LISA R. CLARK, Deputy Clerk to the  
28 Honorable JAMES DONATO

United States District Court  
Northern District of California