



## ANALYSIS

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2 “The court may request an attorney to represent any person unable to afford counsel.” 28  
3 U.S.C. § 1915(e)(1). Federal courts do not, however, have the authority “to make coercive  
4 appointments of counsel.” *Mallard v. U.S. Dist. Court*, 490 U.S. 296, 310 (1989); *see also United*  
5 *States v. \$292,888.04 in U.S. Currency*, 54 F.3d 564, 569 (9th Cir. 1995) (forfeiture proceedings).  
6 “The court may appoint counsel . . . only under ‘exceptional circumstances.’” *Terrell v. Brewer*,  
7 935 F.2d 1015, 1017 (9th Cir. 1991) (Bivens action); *see also Palmer v. Valdez*, 560 F.3d 965,  
8 970 (9th Cir. 2009) (§ 1983 action); *Agyeman v. Corr. Corp. of Am.*, 390 F.3d 1101, 1103 (9th  
9 Cir. 2004) (Bivens action); *Burns v. City of King*, 883 F.2d 819, 824 (9th Cir. 1989) (per curiam)  
10 (§ 1983 action); *Franklin v. Murphy*, 745 F.2d 1221, 1236 (9th Cir. 1984) (Section 1983 action).

11 “A finding of exceptional circumstances requires an evaluation of both the likelihood of  
12 success on the merits and the ability of the petitioner to articulate his claims pro se in light of the  
13 complexity of the issues involved. Neither of these factors is dispositive and both must be viewed  
14 together before reaching a decision.” *Terrell*, 935 F.2d at 1017 (*citing Wilborn v. Escalderon*, 789  
15 F.2d 1328, 1331 (9th Cir. 1986) (§ 1983 action)); *see also Palmer*, 560 F.3d at 970; *\$292,888.04*  
16 *in U.S. Currency*, 54 F.3d at 569; *Wood v. Housewright*, 900 F.2d 1332, 1335–36 (9th Cir. 1990)  
17 (Section 1983 claims). Appointment of counsel may be justified when proceedings will go  
18 forward “more efficiently and effectively.” *Johnson v. California*, 207 F.3d 650, 656 (9th Cir.  
19 2000) (per curiam).

20 Here, while the conditions of his confinement make Johnson’s access to legal resources  
21 less than optimal, the court is satisfied he still has access to the information he needs. While  
22 Johnson’s current housing at the Tonopah Conservation Camp does not have a law library on site,  
23 the facility provides him with a caseworker to assist him with legal research and gathering of  
24 materials from the law library located at the High Desert State Prison. As a result, this situation  
25 does not rise to the level of “exceptional circumstances.” While it is early at this stage to evaluate  
26 the likelihood of success on the merits, the Court finds that Plaintiff properly pled at least one  
27 claim. Plaintiff seems to be able to properly articulate his claims, and the claims are not  
28 particularly complex. For those reasons, this request will be denied.

1 IT IS THEREFORE ORDERED that Plaintiff Matthew Johnson's motion for appointment  
2 of counsel (ECF No. 14) is DENIED.

3 IT IS FURTHER ORDERED that the Clerk of Court shall strike ECF No. 13 (a reply to  
4 Defendants' answer), as this is not a proper filing. Replies to answers are not permitted.

5 IT IS FURTHER ORDERED that ECF No. 19 is DENIED as moot.

6 DATED: February 16, 2021.

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BRENDA WEKSLER  
9 UNITED STATES MAGISTRATE JUDGE  
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