

1 exceptional circumstances the court may request the voluntary assistance of counsel pursuant to
2 section 1915(e)(1). Rand, 113 F.3d at 1525.

3 Without a reasonable method of securing and compensating counsel, the court will seek
4 volunteer counsel only in the most serious and exceptional cases. In determining whether “exceptional
5 circumstances exist, the district court must evaluate both the likelihood of success on the merits [and]
6 the ability of the [plaintiff] to articulate his claims pro se in light of the complexity of the legal issues
7 involved.” Id. (internal quotation marks and citations omitted).

8 The test for exceptional circumstances requires the court to evaluate a plaintiff’s likelihood of
9 success on the merits and the ability of the plaintiff to articulate his claims pro se in light of the
10 complexity of the legal issues involved. See Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th Cir.
11 1986); Weygandt v. Look, 718 F.2d 952, 954 (9th Cir. 1983). Circumstances common to most
12 prisoners, such as lack of legal education and limited law library access, do not establish exceptional
13 circumstances that would warrant a request for voluntary assistance of counsel.

14 In the present case, the Court does not find the exceptional circumstances necessary to request
15 volunteer counsel. At this early stage in the proceedings, the Court cannot find any likelihood of
16 success on the merits. Nor does the Court find that Plaintiff cannot adequately articulate his claims or
17 respond to the Court’s orders. In several of his pleadings, the Court in fact found that Plaintiff stated
18 cognizable claims, although his most recent amended complaint was dismissed with leave to amend
19 for the failure to state any claim upon which relief could be granted. (ECF No. 35.) Plaintiff is advised
20 that he is not precluded from renewing the motion for appointment of counsel at a later stage of the
21 proceedings, if appropriate.

22 Accordingly, it is HEREBY ORDERED that Plaintiff’s third motion for appointment of
23 counsel, filed December 7, 2016 (ECF No. 36), will be DENIED without prejudice.

24
25 IT IS SO ORDERED.

26 Dated: December 8, 2016



27 UNITED STATES MAGISTRATE JUDGE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28