

1 the merits [and] the ability of the [plaintiff] to articulate his claims pro se in light of the
2 complexity of the legal issues involved.” Id. (internal quotation marks and citations omitted).

3 Even if it is assumed that Plaintiff is not well versed in the law and that he has made
4 serious allegations which, if proved, would entitle him to relief, his case is not exceptional. A
5 review of the record in this case shows that Plaintiff is able to articulate his claims and arguments,
6 and the legal issues he proceeds upon are not complex. Plaintiff asserts that his imprisonment will
7 limit his ability to litigate this case, and Plaintiff’s handwriting and mental status make it difficult
8 for him to relay legal arguments to the Court. Furthermore, Plaintiff has heard that there will be
9 construction done on the facility law library beginning in February 2018, meaning that he will
10 have no law library at his institution.

11 Based on these facts, the Court does not find that Plaintiff is unable to litigate his case.
12 Furthermore, at this stage in the proceedings, the Court cannot make a determination that Plaintiff
13 is likely to succeed on the merits, which is another necessary factor to consider in determining
14 whether counsel should be appointed here. In sum, based on the relevant factors and the record at
15 this time, the Court does not find the required exceptional circumstances for the appointment of
16 counsel here.

17 Accordingly, Plaintiff’s motion for the appointment of counsel, (ECF No. 56), is
18 HEREBY DENIED, without prejudice.

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20 IT IS SO ORDERED.

21 Dated: February 28, 2018

22 /s/ Barbara A. McAuliffe
23 UNITED STATES MAGISTRATE JUDGE
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