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| 8  | UNITED STATES DISTRICT COURT  |                           |
| 9  | FOR THE EASTERN DISTRICT OF CALIFORNIA  |                           |
| 10 |   |                           |
| 11 | IVAN LEE MATHEWS,   | No. 1:14-cv-1959 KJM DB P |
| 12 | Plaintiff,  |                           |
| 13 | V.  | <u>ORDER</u>              |
| 14 | K. HOLLAND,   |                           |
| 15 | Defendant.  |                           |
| 16 |   |                           |
| 17 | Plaintiff, a state prisoner proceeding pro se with a civil rights action, has requested                 |                           |
| 18 | appointment of counsel. Plaintiff states that he requires counsel primarily because he has no legal     |                           |
| 19 | training, will have difficulty gathering evidence, and takes medications for pain.                      |                           |
| 20 | The United States Supreme Court has ruled that district courts lack authority to require                |                           |
| 21 | counsel to represent indigent prisoners in § 1983 cases. Mallard v. United States Dist. Court, 490      |                           |
| 22 | U.S. 296, 298 (1989). In certain exceptional circumstances, the district court may request the          |                           |
| 23 | voluntary assistance of counsel pursuant to 28 U.S.C. § 1915(e)(1). Terrell v. Brewer, 935 F.2d         |                           |
| 24 | 1015, 1017 (9th Cir. 1991); Wood v. Housewright, 900 F.2d 1332, 1335-36 (9th Cir. 1990).                |                           |
| 25 | The test for exceptional circumstances requires the court to evaluate the plaintiff's                   |                           |
| 26 | likelihood of success on the merits and the ability of the plaintiff to articulate his claims pro se in |                           |
| 27 | light of the complexity of the legal issues involved. See Wilborn v. Escalderon, 789 F.2d 1328,         |                           |

1331 (9th Cir. 1986); Weygandt v. Look, 718 F.2d 952, 954 (9th Cir. 1983). Circumstances

common to most prisoners, such as lack of legal education and limited law library access, do not establish exceptional circumstances that would warrant a request for voluntary assistance of counsel. In the present case, the court does not find the required exceptional circumstances. Accordingly, IT IS HEREBY ORDERED that plaintiff's motion for the appointment of counsel (ECF No. 64) is denied without prejudice to its renewal at a later date. Dated: February 11, 2019 UNITED STATES MAGISTRATE JUDGE DB/prisoner-civil rights/matt1959.31.db