2 3 4 5 6 7 UNITED STATES DISTRICT COURT 8 EASTERN DISTRICT OF CALIFORNIA 9 10 11 BILLY COY COCHRAN, Case No.: 1:15-cv-01092-AWI-SAB (PC) 12 Plaintiff, ORDER DENYING, WITHOUT PREJUDICE, PLAINTIFF'S SEVENTH MOTION FOR 13 v. APPOINTMENT OF COUNSEL 14 E. AGUIRRE, [ECF No. 82] 15 Defendant. 16 Plaintiff Billy Coy Cochran is appearing pro se in this civil rights action pursuant to 42 U.S.C. 17 § 1983. 18 Currently before the Court is Plaintiff's seventh motion for appointment of counsel, filed 19 20 February 3, 2017. 21 As Plaintiff is well aware, he does not have a constitutional right to appointed counsel in this action, Rand v. Rowland, 113 F.3d 1520, 1525 (9th Cir. 1997), and the court cannot require any 22 23 attorney to represent plaintiff pursuant to 28 U.S.C. § 1915(e)(1). Mallard v. United States District 24 Court for the Southern District of Iowa, 490 U.S. 296, 298 (1989). However, in certain exceptional circumstances the court may request the voluntary assistance of counsel pursuant to section 25 26 1915(e)(1). Rand, 113 F.3d at 1525. 27 Without a reasonable method of securing and compensating counsel, the court will seek volunteer counsel only in the most serious and exceptional cases. In determining whether 28

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"exceptional circumstances exist, the district court must evaluate both the likelihood of success on the merits [and] the ability of the [plaintiff] to articulate his claims pro se in light of the complexity of the legal issues involved." <u>Id.</u> (internal quotation marks and citations omitted).

The test for exceptional circumstances requires the Court to evaluate the Plaintiff's likelihood of success on the merits and the ability of the Plaintiff to articulate his claims pro se in 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). Plaintiff has not demonstrated new or different circumstances to merit appointment of counsel in this case. 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. The Court finds Plaintiff's reasons for requesting appointment of counsel indistinguishable from the reasons asserted by most prisoners. Accordingly, Plaintiff's seventh motion for appointment of counsel is be DENIED without prejudice.

IT IS SO ORDERED.

Dated: **February 6, 2017**

UNITED STATES MAGISTRATE JUDGE