

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

3 The test for exceptional circumstances requires the court to evaluate a plaintiff’s likelihood of
4 success on the merits and the ability of the plaintiff to articulate his claims pro se in light of the
5 complexity of the legal issues involved. See Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th Cir.
6 1986); Weygandt v. Look, 718 F.2d 952, 954 (9th Cir. 1983). Circumstances common to most
7 prisoners, such as lack of legal education and limited law library access, do not establish exceptional
8 circumstances that would warrant a request for voluntary assistance of counsel.

9 At this time, the Court does not find the exceptional circumstances necessary to request
10 volunteer counsel at this time. Plaintiff is proceeding on claims of excessive force and failure to
11 protect for which the legal issues are not complex, and Plaintiff has thoroughly set forth his allegations
12 in the complaint. While a pro se litigant may be better served with the assistance of counsel, so long
13 as a pro se litigant, such as Plaintiff in this instance, is able to “articulate his claims against the relative
14 complexity of the matter,” the “exceptional circumstances” which might require the appointment of
15 counsel do not exist. Rand v. Rowland, 113 F.3d at 1525 (finding no abuse of discretion under 28
16 U.S.C. § 1915(e) when district court denied appointment of counsel despite fact that pro se prisoner
17 “may well have fared better-particularly in the realm of discovery and the securing of expert
18 testimony.”) Accordingly, Plaintiff’s second motion for appointment of counsel is denied, without
19 prejudice.

20
21 IT IS SO ORDERED.

22 Dated: December 22, 2017



UNITED STATES MAGISTRATE JUDGE