## 1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF CALIFORNIA 10 11 ROBERT WILLIS, No. 2:09-cv-0342 MCE DAD P 12 Plaintiff. 13 v. ORDER 14 R. WEEKS, 15 Defendant. 16 17 Plaintiff, a state prisoner proceeding pro se with a civil rights action, has requested 18 appointment of counsel. 19 The United States Supreme Court has ruled that district courts lack authority to require 20 counsel to represent indigent prisoners in § 1983 cases. Mallard v. United States Dist. Court, 490 21 U.S. 296, 298 (1989). In certain exceptional circumstances, the district court may request the 22 voluntary assistance of counsel pursuant to 28 U.S.C. § 1915(e)(1). Terrell v. Brewer, 935 F.2d 23 1015, 1017 (9th Cir. 1991); Wood v. Housewright, 900 F.2d 1332, 1335-36 (9th Cir. 1990). 24 The test for exceptional circumstances requires the court to evaluate the plaintiff's 25 likelihood of success on the merits and the ability of the plaintiff to articulate his claims pro se in 26 light of the complexity of the legal issues involved. See Wilborn v. Escalderon, 789 F.2d 1328, 27 1331 (9th Cir. 1986); Weygandt v. Look, 718 F.2d 952, 954 (9th Cir. 1983). Circumstances 28 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 (Doc. No. 83) is denied.

Dated: November 20, 2013

UNITED STATES MAGISTRATE JUDGE

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