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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DEVONTE B. HARRIS,
Plaintiff,
v.
L. ZAMUDIO, et al.,
Defendants.

No. 2:09-cv-1523 TLN AC P

ORDER

Plaintiff, a state prisoner proceeding pro se with a civil rights action, has requested appointment of counsel.

The United States Supreme Court has ruled that district courts lack authority to require counsel to represent indigent prisoners in § 1983 cases. Mallard v. United States Dist. Court, 490 U.S. 296, 298 (1989). In certain exceptional circumstances, the district court may request the voluntary assistance of counsel pursuant to 28 U.S.C. § 1915(e)(1). Terrell v. Brewer, 935 F.2d 1015, 1017 (9th Cir. 1991); Wood v. Housewright, 900 F.2d 1332, 1335-36 (9th Cir. 1990).

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. Palmer v. Valdez, 560 F.3d 965, 970 (9th Cir. 2009) (district court did not abuse discretion in declining to appoint counsel); Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th Cir. 1986); Weygandt v. Look, 718 F.2d 952, 954 (9th Cir.

1 1983). Circumstances common to most prisoners, such as lack of legal education and limited law
2 library access, do not establish exceptional circumstances that would warrant a request for
3 voluntary assistance of counsel. The court notes that this matter has now been set for a settlement
4 conference. ECF No. 82. At this time the court does not find the requisite exceptional
5 circumstances.

6 Accordingly, IT IS HEREBY ORDERED that plaintiff's request for the appointment of
7 counsel (ECF No. 79) is denied.

8 DATED: November 24, 2014

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11 ALLISON CLAIRE
12 UNITED STATES MAGISTRATE JUDGE
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