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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

TROY COOPER,

Plaintiff,

No. CIV S-10-1057 GEB DAD P

vs.

KAUR, et al.,

Defendants.

ORDER

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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. See Wilborn v. Escalderon, 789 F.2d 1328,

1 1331 (9th Cir. 1986); Weygandt v. Look, 718 F.2d 952, 954 (9th Cir. 1983). Circumstances  
2 common to most prisoners, such as lack of legal education and limited law library access, do not  
3 establish exceptional circumstances that would warrant a request for voluntary assistance of  
4 counsel. In the present case, the court does not find the required exceptional circumstances.

5 Plaintiff has also requested an extension of time to file a response to defendants'  
6 May 5, 2011, motion for summary judgment. Good cause appearing, the request will be granted.

7 Accordingly, IT IS HEREBY ORDERED that:

- 8 1. Plaintiff's motion for the appointment of counsel (Doc. No. 38) is denied;
- 9 2. Plaintiff's motion for an extension of time (Doc. No. 39) is granted; and
- 10 3. Plaintiff is granted sixty days from the date of this order in which to file and  
11 serve a response to defendants' motion for summary judgment.

12 DATED: June 14, 2011.

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16 DALE A. DROZD  
17 UNITED STATES MAGISTRATE JUDGE

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