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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

BURCH MICHAEL BOWEN,
Plaintiff,
v.
MATTHEW CATE, et al.,
Defendants.

No. 2:12-cv-1519 MCE 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.

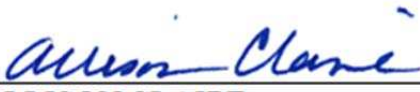
1 1983). Circumstances common to most prisoners, such as lack of legal education and limited law
2 library access, do not establish exceptional circumstances that would warrant a request for
3 voluntary assistance of counsel.

4 Plaintiff was appointed counsel for the limited purpose of drafting and filing an amended,
5 and then a second amended, complaint. ECF Nos. 13, 17. That limited appointment expired with
6 the filing of the second amended complaint. See Order at ECF No. 24. The court does not find
7 that exceptional circumstances exist at this time to support further appointment of counsel.

8 Plaintiff's request for the appointment of counsel will therefore be denied.

9 Accordingly, IT IS HEREBY ORDERED that plaintiff's July 28, 2014 motion for the
10 appointment of counsel (ECF No. 38) is denied.

11 DATED: October 28, 2014

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13 ALLISON CLAIRE
14 UNITED STATES MAGISTRATE JUDGE
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