

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOSE LUIS SEGURA,
Plaintiff,
v.
MICHAEL MCDONALD, et al.,
Defendants.

No. 2:13-cv-0393 AC P

ORDER

Plaintiff, a state prisoner proceeding pro se with a civil rights action, has requested appointment of counsel. ECF No. 43.

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, 1331 (9th Cir. 1986); Weygandt v. Look, 718 F.2d 952, 954 (9th Cir. 1983). Circumstances common to most prisoners, such as lack of legal education and limited law library access, do not

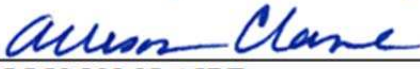
1 establish exceptional circumstances that would warrant a request for voluntary assistance of
2 counsel. In the present case, the court does not find the required exceptional circumstances.

3 In addition, plaintiff has filed a motion for extension of time to file and serve an
4 opposition to defendant's May 15, 2015 motion for summary judgment. ECF No. 42. Good
5 cause appearing, plaintiff's request is granted.

6 Accordingly, IT IS HEREBY ORDERED that:

- 7 1. Plaintiff's motion for the appointment of counsel (ECF No. 43) is denied;
- 8 2. Plaintiff's motion for an extension of time (ECF No. 42) is granted; and
- 9 3. Plaintiff shall file and serve his opposition on or before July 29, 2015. Defendant's
10 reply, if any, shall be filed within seven days thereafter.

11 DATED: June 15, 2015

12 
13 _____
14 ALLISON CLAIRE
15 UNITED STATES MAGISTRATE JUDGE
16
17
18
19
20
21
22
23
24
25
26
27
28