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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

FRANK LEE DEARWESTER,
Plaintiff,
v.
SACRAMENTO COUNTY SHERIFF'S
DEPARTMENT,
Defendant.

No. 2:13-cv-2064 MCE DB P

ORDER

Plaintiff, a state prisoner proceeding pro se with a civil rights action, has requested appointment of counsel. Plaintiff contends he requires the appointment of counsel because he suffers several psychiatric disorders, he is uneducated in the law, and the prison law library is inaccessible and inadequate.

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

1 light of the complexity of the legal issues involved. See Wilborn v. Escalderon, 789 F.2d 1328,
2 1331 (9th Cir. 1986); Weygandt v. Look, 718 F.2d 952, 954 (9th Cir. 1983). Circumstances
3 common to most prisoners, such as lack of legal education and limited law library access, do not
4 establish exceptional circumstances that would warrant a request for voluntary assistance of
5 counsel. In the present case, the court does not find the required exceptional circumstances.

6 The court is concerned, however, about plaintiff's assertion that the prison law library is
7 inaccessible and inadequate. While these assertions do not form a basis for the appointment of
8 counsel, plaintiff should inform the court, with specificity, if he is not receiving access to the
9 library and explain why it is inadequate.

10 Accordingly, IT IS HEREBY ORDERED that plaintiff's motion for the appointment of
11 counsel (ECF No. 79) is denied.

12 Dated: May 25, 2017



DEBORAH BARNES
UNITED STATES MAGISTRATE JUDGE

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