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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

HARRISON BURTON,
Plaintiff,
v.
F. FOULK, et al.,
Defendants.

No. 2:13-cv-2123 JAM DB P

ORDER

Plaintiff, a state prisoner proceeding pro se with a civil rights action, has requested appointment of counsel to represent him at trial. (ECF No. 59). In support of the motion, plaintiff states that the issues in this case are complex, and his imprisonment will greatly limit his ability to litigate this matter. See id. at 1. He asks that the court appoint one Brian K. Wanerman to represent him. See id. at 2.

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.

5 This matter has been on the court's docket since 2013. Thus far, plaintiff has adequately
6 represented himself without the assistance of counsel. For this reason, the court does not find the
7 required exceptional circumstances.

8 Accordingly, IT IS HEREBY ORDERED that plaintiff's motion for the appointment of
9 counsel (ECF No. 59) is DENIED.

10 Dated: January 31, 2020

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14 DEBORAH BARNES
UNITED STATES MAGISTRATE JUDGE

15 DLB:13
16 DB/ORDERS/ORDERS.PRISONER.CIVIL RIGHTS/burt2123.31(4)

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