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

JOHN M. HALL,

No. 2:13-CV-2211-CMK-P

Plaintiff,

vs.

ORDER

ANTHONY GRAMMATICO, et al.,

Defendants.

\_\_\_\_\_ /

Plaintiff, a prisoner proceeding pro se, brings this civil rights action pursuant to 42 U.S.C. § 1983.

Plaintiff seeks the 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. See Mallard v. United States Dist. Court, 490 U.S. 296, 298 (1989). In certain exceptional circumstances, the court may request the voluntary assistance of counsel pursuant to 28 U.S.C. § 1915(e)(1). See Terrell v. Brewer, 935 F.2d 1015, 1017 (9th Cir. 1991); Wood v. Housewright, 900 F.2d 1332, 1335-36 (9th Cir. 1990). A finding of “exceptional circumstances” requires an evaluation of both the likelihood of success on the merits and the ability of the plaintiff to articulate his claims on his own in light of the complexity of the legal

1 issues involved. See Terrell, 935 F.2d at 1017. Neither factor is dispositive and both must be  
2 viewed together before reaching a decision. See id.

3 In the present case, the court does not at this time find the required exceptional  
4 circumstances. As discussed in more detail in the accompanying order, plaintiff's first amended  
5 complaint is sufficiently articulate that it appears to state claims upon which relief can be  
6 granted. Moreover, while plaintiff's amended complaint appears to state a claim, the court  
7 cannot say at this juncture of the litigation that it is likely that plaintiff will prevail on the merits.  
8 Finally, the legal issues presented in this case are not complex.

9 Accordingly, IT IS HEREBY ORDERED that plaintiff's requests for the  
10 appointment of counsel (Docs. 16 and 24) are denied.

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12 DATED: March 16, 2015

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14 **CRAIG M. KELLISON**  
15 UNITED STATES MAGISTRATE JUDGE  
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