1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF CALIFORNIA 10 11 RAUL GARCIA, No. 2:14-cv-2378 JAM DB P 12 Plaintiff. 13 v. ORDER 14 F. FOLKS, et al., 15 Defendants. 16 17 Plaintiff, a state prisoner proceeding pro se with a civil rights action, has requested 18 appointment of counsel. Plaintiff points to his limited access to the prison law library, his limited 19 education, and the complexity of his case as support for his request. 20 The United States Supreme Court has ruled that district courts lack authority to require 21 counsel to represent indigent prisoners in § 1983 cases. Mallard v. United States Dist. Court, 490 22 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 23 24 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 25 26 likelihood of success on the merits and the ability of the plaintiff to articulate his claims pro se in 27 light of the complexity of the legal issues involved. See Wilborn v. Escalderon, 789 F.2d 1328, 28 1331 (9th Cir. 1986); Weygandt v. Look, 718 F.2d 952, 954 (9th Cir. 1983). Circumstances 1

common to most prisoners, such as lack of legal education and limited law library access, do not establish exceptional circumstances that would warrant a request for voluntary assistance of counsel. In the present case, the court does not find the required exceptional circumstances. Accordingly, IT IS HEREBY ORDERED that plaintiff's October 24, 2016 motion for the appointment of counsel (ECF No. 39) is denied. Dated: November 9, 2016 UNITED STATES MAGISTRATE JUDGE DLB1/prisoner-civil rights/garc2378.31