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8	IN THE UNITED STATES DISTRICT COURT
9	FOR THE EASTERN DISTRICT OF CALIFORNIA
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11	KEITH CANDLER, No. 2:15-CV-0969-TLN-CMK-P
12	Plaintiff,
13	vs. <u>ORDER</u>
14	MILES STAINER, et al.,
15	Defendants.
16	/
17	Plaintiff, a prisoner proceeding pro se, brings this civil rights action pursuant to
18	42 U.S.C. § 1983.
19	Plaintiff seeks the appointment of counsel. The United States Supreme Court has
20	ruled that district courts lack authority to require counsel to represent indigent prisoners in
21	§ 1983 cases. See Mallard v. United States Dist. Court, 490 U.S. 296, 298 (1989). In certain
22	exceptional circumstances, the court may request the voluntary assistance of counsel pursuant to
23	28 U.S.C. § 1915(e)(1). See Terrell v. Brewer, 935 F.2d 1015, 1017 (9th Cir. 1991); Wood v.
24	Housewright, 900 F.2d 1332, 1335-36 (9th Cir. 1990). A finding of "exceptional
25	circumstances" requires an evaluation of both the likelihood of success on the merits and the
26	ability of the plaintiff to articulate his claims on his own in light of the complexity of the legal

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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. First, plaintiff has demonstrated an ability to articulate his claims on his own.
5	Second, the legal question involved – whether defendants were deliberately indifferent to a
6	serious medical need – is not particularly complex. Finally, while plaintiff has articulated
7	coherent claims and has the possibility of prevailing, the court cannot say at this early stage of the
8	proceedings that plaintiff is likely to prevail.
9	Accordingly, IT IS HEREBY ORDERED that plaintiff's request for the
10	appointment of counsel (Doc. 4) is denied.
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12	DATED: February 12, 2016
13	Loig M. Kellison
14	CRAIG M. KELLISON UNITED STATES MAGISTRATE JUDGE
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