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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

SAMUEL WINDHAM, JR.,  
Plaintiff,  
v.  
CALIFORNIA MEDICAL FACILITY, et  
al.,  
Defendants.

No. 2:15-cv-1058 MCE CKD P

ORDER

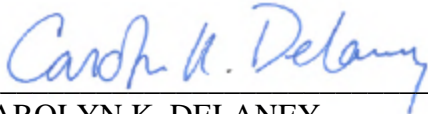
Plaintiff, a state prisoner proceeding pro se and in forma pauperis, has requested appointment of counsel. The court cannot *require* an attorney to represent a plaintiff who cannot pay for the attorney’s services. Mallard v. United States Dist. Court, 490 U.S. 296, 298 (1989). However, under the federal in forma pauperis statute, 28 U.S.C. § 1915, the court may *request* that an attorney represent a person unable to afford counsel. 28 U.S.C. § 1915(e)(1). The court will make that request only when there are exceptional circumstances. When determining whether “exceptional circumstances” exist, the court considers, among other things, plaintiff’s likelihood of success on the merits as well as the ability of the plaintiff to articulate his claims pro se in light of the complexity of the legal issues involved. Palmer v. Valdez, 560 F.3d 965, 970 (9th Cir. 2009). While the court is aware of the difficulties attendant to litigating an action while  
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1 incarcerated, circumstances common to most prisoners do not establish “exceptional  
2 circumstances.”

3 In the present case, the court does not find the required exceptional circumstances at this  
4 stage of these proceedings.

5 Accordingly, IT IS HEREBY ORDERED that plaintiff’s motion for appointment of  
6 counsel (ECF No. 35) is denied without prejudice.

7 Dated: August 26, 2016

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10 CAROLYN K. DELANEY  
11 UNITED STATES MAGISTRATE JUDGE

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