8   UNITED STATES DISTRICT COURT

9   FOR THE EASTERN DISTRICT OF CALIFORNIA

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11   CAMERON SHEPHERD,   No. 2:15-cv-1894 KJN P

12   Plaintiff,

13   v.   ORDER

14   CALIFORNIA FORENSIC MEDICAL
     GROUP, et al.,
15
                     Defendants.
16

17

18   Plaintiff is a state prisoner, proceeding pro se, in an action brought under 42 U.S.C. §

19   1983. Plaintiff requests that the court appoint counsel. District courts lack authority to require

20   counsel to represent indigent prisoners in section 1983 cases. Mallard v. United States Dist.

21   Court, 490 U.S. 296, 298 (1989). In exceptional circumstances, the court may request an attorney

22   to voluntarily represent such a plaintiff. See 28 U.S.C. § 1915(e)(1). Terrell v. Brewer, 935 F.2d

23   1015, 1017 (9th Cir. 1991); Wood v. Housewright, 900 F.2d 1332, 1335-36 (9th Cir. 1990).

24   When determining whether "exceptional circumstances" exist, the court must consider plaintiff's

25   likelihood of success on the merits as well as the ability of the plaintiff to articulate his claims pro

26   se in light of the complexity of the legal issues involved. Palmer v. Valdez, 560 F.3d 965, 970

27   (9th Cir. 2009) (district court did not abuse discretion in declining to appoint counsel). The

28   burden of demonstrating exceptional circumstances is on the plaintiff. Id. Circumstances

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common to most prisoners, such as lack of legal education and limited law library access, do not establish exceptional circumstances that warrant a request for voluntary assistance of counsel.
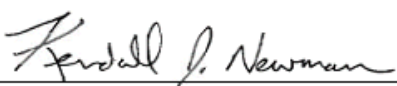
Having considered the factors under <u>Palmer</u>, the court finds that plaintiff has failed to meet his burden of demonstrating exceptional circumstances warranting the appointment of counsel.

Accordingly, IT IS HEREBY ORDERED that plaintiff's motion for the appointment of counsel (ECF No. 30) is denied without prejudice.

Dated: October 20, 2016

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KENDALL J. NEWMAN
UNITED STATES MAGISTRATE JUDGE

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