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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

RONNIE R. GOVEA,  
Plaintiff,  
v.  
ROBERT W. FOX, et al.,  
Defendants.

No. 2:15-cv-2545 MCE DB P  
ORDER

Plaintiff is a state prisoner proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff claims defendants failed to provide him with adequate medical treatment in violation of the Eight Amendment. Presently before the court is plaintiff’s motion to appoint of counsel. (ECF No. 36.) In support of his motion plaintiff argues he has a tenth grade education, he cannot afford counsel, and his incarceration will prevent him from obtaining evidence.


The United States Supreme Court has ruled that district courts lack authority to require counsel to represent indigent prisoners in § 1983 cases. Mallard v. United States Dist. Court, 490 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 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 likelihood of success on the merits and the ability of the plaintiff to articulate his claims pro se in

1 light of the complexity of the legal issues involved. See Wilborn v. Escalderon, 789 F.2d 1328,  
2 1331 (9th Cir. 1986); Weygandt v. Look, 718 F.2d 952, 954 (9th Cir. 1983). Circumstances  
3 common to most prisoners, such as lack of legal education and limited law library access, do not  
4 establish exceptional circumstances that would warrant a request for voluntary assistance of  
5 counsel. In the present case, the court does not find the required exceptional circumstances at this  
6 time. The court will deny plaintiff's motion without prejudice to its renewal at a later stage of the  
7 proceedings.

8 Accordingly, IT IS HEREBY ORDERED that plaintiff's motion for the appointment of  
9 counsel (ECF No. 36) is denied.

10 Dated: July 8, 2019

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14 DEBORAH BARNES  
15 UNITED STATES MAGISTRATE JUDGE  
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